

**Ward** Yarty

**Reference** 23/2663/FUL

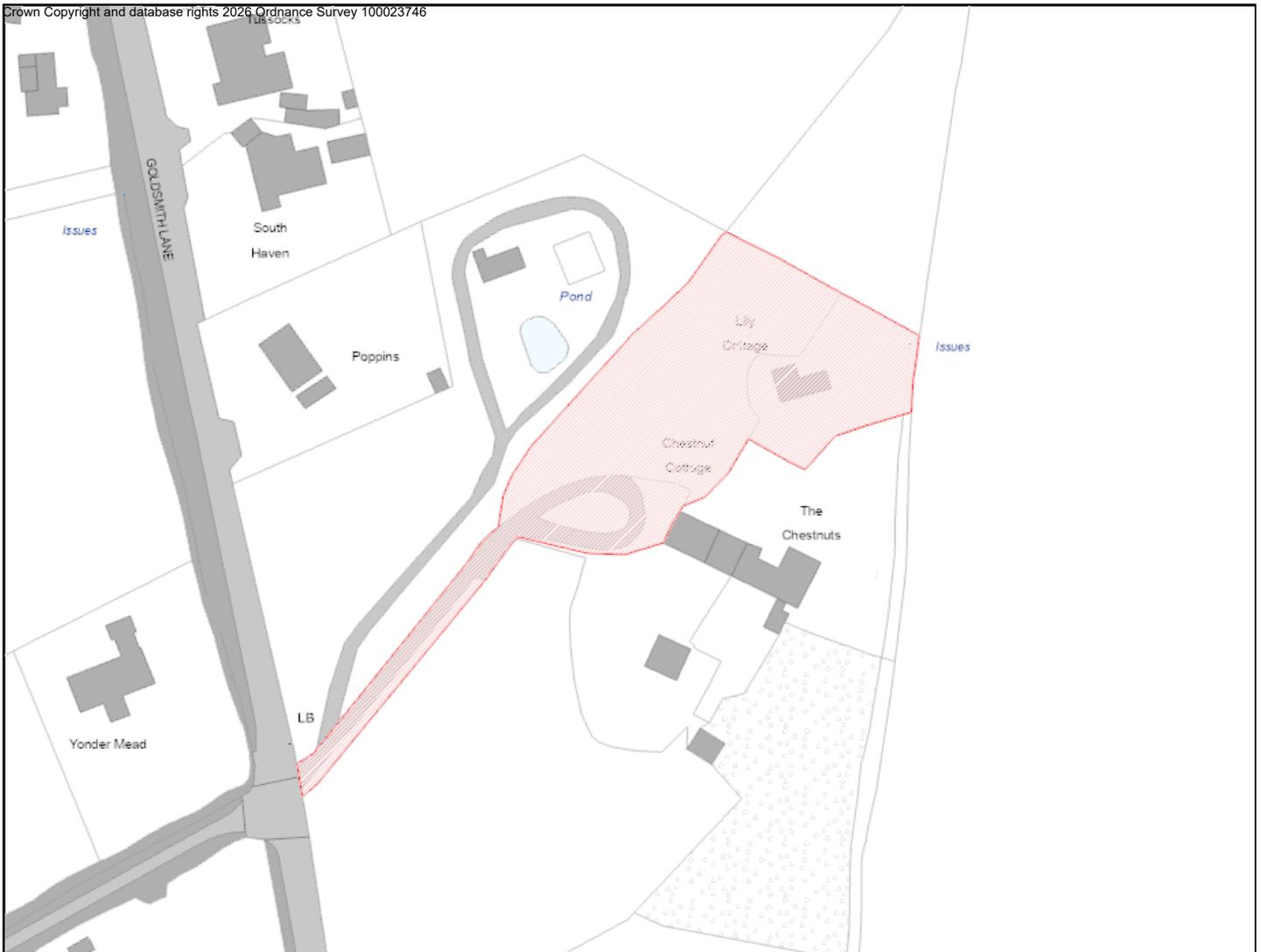
**Applicant** Mr and Mrs Raggio

**Location** Lily Cottage Goldsmith Lane All Saints  
Axminster EX13 7LU

**Proposal** Demolition of cottage and erection of new  
dwelling



**RECOMMENDATION: Adopt the Appropriate Assessment and Approve with conditions subject to a S106 agreement to secure a foul drainage upgrade**



		<b>Committee Date: 24.03.2026</b>
<b>Yarty (All Saints)</b>	<b>23/2663/FUL</b>	<b>Target Date: 13.02.2024</b>
<b>Applicant:</b>	<b>Mr and Mrs Raggio</b>	
<b>Location:</b>	<b>Lily Cottage Goldsmith Lane</b>	
<b>Proposal:</b>	<b>Demolition of cottage and erection of new dwelling</b>	

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### **EXECUTIVE SUMMARY**

**This application is before the committee because it is a departure from the development plan. It seeks full planning permission for the demolition of the remains of the former Lily Cottage and construction of a new dwelling on land at Goldsmiths Lane, All Saints. A previous proposal on the site was refused and subsequently dismissed at appeal, primarily due to excessive scale, dominance and inadequate integration with neighbouring cottages. The current submission has been expressly prepared in response to that decision.**

**The revised design retains the Inspector-praised sinuous cob-and-thatch concept but significantly reduces height, width and footprint, and incorporates a bespoke eaves-line photovoltaic system that integrates modern technology with traditional materials. The Council's Urban Designer considers the revised scheme to be an attractive, well-proportioned and contextually sensitive addition.**

**Although the site lies in the countryside and the proposal conflicts with Strategy 7 and with Strategy 5B/Policy TC2 relating to sustainable travel, the Council's housing land supply position engages the tilted balance under NPPF paragraph 11(d). The dwelling demonstrates clear innovation in materials and construction and achieves very high sustainability performance, including zero-carbon operation. These attributes attract significant positive weight under NPPF paragraph 139(b).**

**Technical matters, including ecology, drainage, trees and nutrient neutrality, can be appropriately managed through conditions and a Section 106 agreement securing off-site phosphorus mitigation.**

**In the overall planning balance, the limited harm arising from reliance on the private car does not significantly and demonstrably outweigh the substantial**

**benefits of delivering an innovative, highly sustainable and contextually sensitive dwelling that resolves the issues identified at appeal. The proposal therefore represents sustainable development when assessed against the NPPF as a whole, and approval is recommended subject to conditions and completion of the Section 106 agreement.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

All Saints Parish Council do not support the application.

The proposed development is on the footprint of a cottage that was replaced by a property known as Poppins and should be treated as a new development.

The proposed development is outside the Defined Settlement Boundary in the East Devon Local Plan 2013-2031.

The proposed development is within the river Axe catchment area which does not allow any new property to increase the phosphate discharge into the river Axe. The Nutrient Neutrality document in the planning application appears to refer to a property "Greenhayes" in certain pages and requires close examination by a competent person.

The proposed development is lower in height and smaller than the development refused at appeal in May 2022, but it is still many times the footprint of the original cottage and larger than the other properties in the vicinity.

This application has been registered many times since 1981 and has been refused each time.

All Saints Parish Council do not support the application as there are no changes to our previous submissions concerning this application.

The proposed development is outside the Defined Settlement Boundary in the East Devon Local Plan 2013-2031.

The proposed development is lower in height and smaller than the development refused at appeal in May 2022, but it is still many times the footprint of the original cottage and larger than the other properties in the vicinity.

We would appreciate clarification from the Planning Team that this application is a new build.

#### Other Representations

Four representations have been received, three objecting to the proposal. One letter expresses support. The main issues raised are summarised below.

#### 1. Principle of Development / Policy Compliance

Many objectors argue that:

- The site lies outside the Defined Settlement Boundary and is therefore treated as open countryside, where new dwellings are contrary to policy.
- The original cottage on the site was replaced by “Poppins” some years ago, meaning the current site should not be considered previously developed land or eligible for a replacement dwelling.
- Approval would risk setting a precedent for further development of open countryside sites.

Some objectors also contend that the proposal does not meet the high bar of NPPF paragraph 84 or 139, including that the design is not exceptional, does not significantly enhance its setting, and does not raise rural design standards.

## 2. Design, Scale and Appearance

Several detailed objections raise significant concerns regarding design quality, including:

- The dwelling is said to remain substantially larger than the former cottage and out of scale with nearby dwellings.
- The design is considered intrusive, ostentatious, and alien to the local character.
- Use of cob, thatch, copper and curved glazing is criticised as impractical, unsustainable or incompatible with the proposed form.
- Concerns are raised regarding structural feasibility, fire precautions for thatch, detailing of the copper ridge, roof construction, the absence of a roof plan, and questions over the viability/cost of specialist glazing.
- Internal layout concerns include poor relationship with outdoor spaces, suboptimal daylighting, and unresolved structural issues.

One representation, however, supports the design, stating it is low-impact, uses natural materials, and would blend well into the landscape while incorporating modern sustainable technologies.

## 3. Impact on Neighbouring Amenity

Objectors raise concerns regarding:

- Overlooking and loss of privacy, echoing issues identified in earlier appeal decisions.
- Noise impacts associated with occupation, vehicle movements and construction activities.
- The position of external areas and turning spaces close to neighbouring properties.

## 4. Landscape and Visual Impact

Representations argue that:

- The development would harm the rural landscape and character of the area.
- Proposed landscaping is minimal and inadequate, with no substantive screening or meaningful planting proposals.
- Lack of detail on replacement planting for a nearby ash tree understood to be declining.

## 5. Ecology and River Axe SAC

Concerns include:

- Potential disturbance to local wildlife, including deer, bats, owls, buzzards and rabbits.
- Lack of clarity regarding mitigation for impacts within the River Axe SAC catchment.
- Risks associated with the proposed water treatment plant, including maintenance responsibilities and potential pollution.

## 6. Drainage, Services and Sustainability Technology

Objectors note:

- Insufficient detail about the proposed ground-source heat pump (closed loop vs borehole, discharge arrangements, feasibility within site area).
- Possible conflict between the heat pump ground loops and the proposed orchard.
- Concerns about siting, appearance and maintenance of stand-alone PV panels, including potential for reflection and overshadowing.
- Lack of information on battery storage and energy transmission arrangements.

## 7. Traffic, Access and Parking

Issues raised include:

- The access on plans is unclear or inaccurately drawn.
- The proposed single-track drive may restrict access for delivery vehicles and emergency services.
- The turning circle is said to be too small for anything other than a small car and poorly located adjacent to the main habitable room windows.
- Parking provision is not clearly shown.

## 8. Refuse and Waste Management

Several objectors highlight:

- Residents currently have to deposit bins at the junction with Goldsmiths Lane, some distance away.
- No on-site solution is provided for refuse storage or collection in accordance with EDDC design guidance.

## 9. Other Matters

Other issues raised include:

- Absence of external storage, with concern that future occupants may erect sheds or outbuildings unless restricted.
- Accessibility concerns, including lack of clear paths around the dwelling and areas unsuitable for wheelchair users.
- General concern about construction impacts, including heavy goods traffic.

## **Technical Consultations**

### Natural England

13/11/ 2024

Natural England advises that the proposal lies within a nutrient-sensitive European site catchment and may have significant adverse effects on designated habitats through nutrient pollution. An HRA with full nutrient budget calculations is required, progressing to Appropriate Assessment if impacts cannot be ruled out. Any

mitigation must be clearly justified, secured, monitored, and funded in perpetuity. Natural England warns that, without this information, it may need to object. General guidance is provided on use of SSSI Impact Risk Zones and the option of seeking discretionary advice.

19/02/2025

Natural England accepts the conclusion of the Council's Appropriate Assessment but advises that the reasoning should be strengthened for any future appeal. They note that although the proposal cannot be screened out at the LSE stage, this does not necessarily mean it fails the integrity test.

They express doubts about the practicality and long-term security of using an orchard on a drainage mound for phosphorus mitigation, noting that the method departs from standard calculators and lacks precedent. They highlight that alternative, more conventional mitigation options—such as upgrading existing sewage systems—are available locally.

27/02/2026

Natural England issues no objection, provided specific mitigation is secured. Without mitigation, the development would harm the River Axe SAC and SSSI. Acceptable mitigation comprises:

- installation of a package treatment plant,
- off-site phosphorus mitigation via upgrading the septic tank at Myrtle Farm, and
- securing all measures through a Section 106 agreement.

Natural England confirms that, with these secured measures, it agrees with the Council's Appropriate Assessment, concluding no adverse effect on site integrity. It also reminds the authority to consider wider landscape protections under national policy.

#### EDDC District Ecologist

The site lies within the River Axe SAC catchment and is subject to nutrient neutrality requirements. The initial mitigation strategy proposed an onsite PTP and replacement of an off-site septic tank with a new PTP; however, because the off-site PTP would discharge downstream of the development, it would not provide compliant upstream mitigation. As a result, a Likely Significant Effect (LSE) on the SAC could not be ruled out, leading to an objection.

Following review, the ecologist advised that a drainage mound is acceptable, provided it complies with BS 6297:2007 and is outside flood zones. An orchard used to absorb additional phosphorus may also be acceptable, but only where hydrological connectivity criteria are met and the orchard is positioned downslope of the drainage mound to intercept all runoff. The submitted layout did not meet these requirements, and relocation of the drainage mound was recommended.

A later technical response sought to justify the orchard-based mitigation; however, Natural England's advice indicates orchards are unsuitable where small-scale hydrological thresholds are not met, such as close to ditches or where groundwater is high. Without comparable approved schemes or Natural England's endorsement,

there remains insufficient certainty that the proposed mitigation would be HRA-compliant, and an LSE cannot be ruled out.

### EDDC Trees

From the documents provided by the applicant and available aerial images it can be seen that there are a number of established trees on site which are likely to act as constraints. However, it is considered likely that in principle development is possible but supporting arboricultural information is required to establish that development is feasible without being detrimental to the existing tree stock. Therefore a full arboricultural survey based on BS5837:2012 is required including tree survey, tree constraints plan, arboricultural method statement, tree protection details.

### EDDC Landscape Architect

The site lies just outside the Blackdown Hills National Landscape, containing mature trees and bounded by hedgerows, with limited wider visibility. Owing to the modest scale of the proposal and its secluded, level setting, landscape and visual impacts are expected to be limited.

However, a BS 5837 tree survey has not been submitted, despite existing mature trees being affected. The proposed driveway would pass through the root protection area of a tree on the southeastern boundary, and the building's northern elevation would encroach into the RPA of a northern boundary tree, potentially causing root damage and future tree–building conflict. These impacts could be avoided by shifting the building footprint southward.

A full BS 5837 survey, arboricultural impact assessment, tree protection plan and method statements are required before determination. Subject to resolving these matters, the development is likely to be acceptable in landscape and visual terms.

### Urban Designer

25/01/2024

The Urban Designer notes that the application is a revised version of a previously refused and dismissed scheme, with the new proposal aiming to address earlier concerns while retaining the distinctive cob-and-thatch design concept. The wider context of All Saints and Smallridge is described as varied and largely incoherent, with no consistent architectural style, though nearby historic cob and thatched cottages offer some relevant precedent.

The revised design keeps the sinuous plan form but is significantly reduced in scale, with a narrower footprint and lower ridge height that now sit more comfortably alongside neighbouring properties. The proposed use of cob from the site, straw bale insulation and thatch is considered contextually appropriate. Leaving the cob walls unfinished could be visually successful, though the Designer warns this may ultimately require limewash protection.

The curved thatched roof is seen as sympathetic, but the copper ridge is identified as a technical and aesthetic departure that may be unnecessary. The repositioning of the solar panels from the roof to the garden is not regarded as satisfactory; the Designer encourages reconsideration of how PV panels might be integrated into the roofscape more coherently.

While the external form is now judged to blend well with its surroundings, the Designer raises concerns about the internal layout. The revised plan replaces the former flowing, sculptural internal spaces with more conventional straight-lined partitions, resulting in a loss of the spatial qualities and inside–outside relationships that previously contributed to the building’s design strength. This change is seen as diminishing the building’s potential to demonstrate the “joy” and innovation expected of a design seeking to meet NPPF paragraph 139 tests.

Remaining technical uncertainties include potential increases in wall thickness and ridge height once structural details are finalised, and the likely need for external protection of the cob.

In conclusion, the Designer considers the external envelope to be successful, with scale, massing and materials now appropriate. However, the internal layout no longer matches the expressive external design. The proposal is described as “good but unresolved”, needing the return of the design quality and coherence evident in the earlier scheme to fully achieve excellence and innovation.

02/12/2024

The Urban Designer notes that the revised drawings introduce a new and much improved approach to integrating solar PV. Earlier schemes either placed the panels in the garden or used a large rectangular BIPV block on the roof, both of which were visually unsuccessful. The latest design instead arranges the panels in a linear band around the south-facing eaves, using a mix of standard and bespoke trapezoidal panels set into a copper backing tray. This allows the array to follow the curved thatched roof without gaps or jarring contrasts.

The copper tray is judged an appropriate technical solution, as standard plastic trays would not bend to the roof’s curves and would risk failure. Copper is also lighter and at least as durable as lead, and supports future panel replacement.

The Designer considers the relocation of the PVs back onto the roof a significant improvement, avoiding the haphazard appearance of the previous ground-mounted array and the harsh rectangular form of the earlier roof-integrated version. The new arrangement allows the panels to read as an integral, well-resolved part of the building, complementing rather than disrupting the curved thatch.

Overall, the revised design is regarded as successful, sensitive and technically coherent, achieving a positive balance between natural materials and contemporary technology. The dwelling is described as an attractive and contextually appropriate addition, with no urban design concerns arising from the revised scheme. The proposal is therefore supported and recommended for approval from a design perspective.

### 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.

### South West Water

South West Water advises that a 3-inch public water main runs near the site; no development is permitted within 3 m, and any encroachment will require the applicant to fund a diversion. Applicants are directed to South West Water for mapping, guidance and confirmation of the main's exact location.

For surface water, the applicant must follow the Run-off Destination Hierarchy; the proposed discharge to a surface water body is acceptable.

South West Water can provide both potable water and foul sewer connections from existing networks, with connection points dependent on pipe sizes. Applicants may apply for formal confirmation through the provider's pre-development services.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
19/0078/FUL	Demolition of former cottage and construction of new dwelling.	Refusal  Appeal Dismissed	12.06.2019  22.06.2022
15/0032/FUL	Restoration/conversion of building (former dwelling) to create a dwelling	Refusal	21.04.2015
14/0253/FUL	Construction of new dwelling on site of former dwelling	Refusal	13.03.2014
13/2037/FUL	Construction of new dwelling on site of former dwelling	Withdrawn	11.11.2013
92/P1672	Dwelling & Detached Garage	Refusal	24.11.1992
91/P1528	Dwelling On Site Of Existing Cottage	Refusal	05.11.1991

### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside) 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  
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

#### Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP06 (Development beyond Settlement Boundaries) Draft  
Strategic Policy CC02 (Moving toward Net-zero carbon development) Draft  
Strategic Policy AR01 (Flooding) Draft  
Strategic Policy AR02 (Water efficiency) Draft  
Policy HN05 (Self-build and custom build housing) Draft  
Strategic Policy DS01 (Design and local distinctiveness) Draft  
Strategic Policy TR01 (Prioritising walking, wheeling, cycling, and public transport)  
Draft  
Policy TR04 (Parking standards) Draft  
Strategic Policy PB01 (Protection of internationally and nationally important wildlife sites) 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)  
National Planning Practice Guidance

#### Site Location and Description

The application site comprises an irregularly shaped parcel of approximately 0.3ha on the east side of Goldsmiths Lane, forming part of the dispersed rural settlement of All Saints. The site contains the ivy-clad ruins of the former Lily Cottage, historically a two-storey cob building which has long since collapsed and is no longer capable of reoccupation. The field within which the ruins sit is enclosed by hedgerows to the north-east, trees to the east, and a younger hedge adjacent to a public footpath running along the western boundary.

To the immediate south lie The Chestnuts and Chestnut Cottage, modest semi-detached cottages occupying slightly smaller plots. These are situated on land slightly lower than the application site. The surrounding settlement pattern comprises a low-density mixture of cottages, post-war dwellings, bungalows and more recent infill houses arranged loosely along Goldsmiths Lane and Knights Lane.

The site is visually contained, with only filtered views available from the public footpath and from parts of Goldsmiths Lane. The site is not within a designated landscape, although the Blackdown Hills National Landscape lies to the west.

All Saints benefits from limited services, but several facilities, including a primary school, church, village hall and pre-school, lie within walking distance in Smallridge to the west, with a bus stop providing services to Axminster and Chard approximately 400m away.

## Background

A previous proposal for a dwelling on this site (ref. 19/0078/FUL) was refused by the Council and subsequently dismissed at appeal in June 2022. The Inspector acknowledged the architectural quality, innovation and sustainability of the design but concluded that its scale and massing resulted in an unacceptable relationship with neighbouring cottages and insufficient sensitivity to the defining characteristics of the local landscape. The current application has been expressly prepared in response to that decision, retaining the positively reviewed design concept while seeking to address the Inspector's concerns through reductions in height, width and footprint, and also addressing nutrient neutrality requirements.

## ANALYSIS

### Principle of Development

The site lies outside any Built-up Area Boundary and is therefore classified as open countryside for the purposes of Strategy 7 of the East Devon Local Plan, where new residential development is strictly controlled unless justified by a specific policy exception. The proposal does not fall within any such exception, including Policy H6 relating to replacement dwellings, as all parties agree that the former dwelling on the site was abandoned long ago. The proposal therefore conflicts with Strategy 7 in principle.

The development also conflicts with Strategy 5B and Policy TC2, which seek to promote sustainable travel by prioritising walking, cycling and public transport. All Saints forms a small rural cluster of dwellings with some functional connection to nearby Smallridge, which contains a primary school, church and village hall. The previous appeal established that the site is not isolated in national policy terms, as it lies adjacent to existing built form. Nevertheless, the limited availability of public transport and wider services means that future occupants would remain largely reliant on the private car for most day-to-day journeys.

Despite these conflicts, the Council is currently only able to demonstrate a 3.5-year housing land supply. As a result, the most important policies for determining residential development are considered out-of-date and the "tilted balance" in paragraph 11(d) of the National Planning Policy Framework is engaged. Under this approach, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this context, a single dwelling may be acceptable in principle, subject to careful consideration of design, landscape, amenity and environmental impacts, including accessibility.

In assessing the proposal, it is therefore necessary to have particular regard to the design policies of the NPPF, including paragraphs 84 and 139. Paragraph 84 concerns development in rural areas and allows for isolated homes only in very limited circumstances, including where the design is of exceptional quality. As this site is not isolated, paragraph 84 is not determinative. Paragraph 139, however, applies to both isolated and non-isolated proposals and states that significant weight should be given to designs that are outstanding or innovative, promote high levels of sustainability, and fit with the overall form and layout of their surroundings. Where these criteria are met, paragraph 139 provides a basis for supporting high-quality, landscape-sensitive housing.

## Design

### *Inspector's Previous Concerns*

The 2019 scheme (dismissed at appeal in June 2022) was previously criticised for its scale, height and dominance, resulting in an imposing relationship with The Chestnuts and Chestnut Cottage. Although the Inspector acknowledged the architectural quality and innovation of the former proposal, she concluded that its massing failed to assimilate into its immediate setting and was insufficiently sensitive to the defining landscape characteristics.

### *The Revised Proposal*

The revised scheme has been expressly designed to address those findings while retaining the design principles that were previously praised. It maintains the distinctive sinuous cob-and-thatch concept, but now incorporates substantial reductions in footprint, width, and depth, and lowers the maximum ridge height by approximately 1.7m. The total building length has been reduced by around 4.9m, and revised earthworks (using site-won material in the cob construction) allow for subtle changes in finished floor levels, further reducing perceived massing. The Design & Access Statement confirms a 37.5% reduction in usable floor area and a narrowing of the plan form, supported by re-engineering of the roof structure through a trussed arrangement that reflects traditional cottage construction.

The solar PV strategy has also evolved significantly. Whereas the dismissed appeal incorporated a visually assertive rectilinear array, the latest design includes a bespoke curved eaves-line PV system that follows the roof's sinuous geometry.

### *Urban Design Advice and Assessment*

The Council's Urban Designer reviewed the proposal in detail and confirms that the revised scale, massing and form now respond appropriately to the site and overcome the concerns raised at appeal. The narrower footprint, lowered ridge, and softened roof profile ensure the building no longer appears dominant in relation to The Chestnuts and Chestnut Cottage, sitting more comfortably within the dispersed rural pattern of All Saints.

The use of cob, straw bale insulation, lime finishes and thatch is considered contextually sympathetic, reflecting local vernacular materials without resorting to pastiche. Although the sinuous plan is distinctive, its gentle curves are compatible with the organic qualities of cob and thatch and avoid an overtly modern or intrusive appearance. The Urban Designer notes that a limewashed external finish may ultimately be necessary for protection, but this would not undermine the building's integration into its setting.

A key improvement is the revised eaves-line PV solar array, which replaces the previously criticised rectangular roof array and the later ground-mounted solution. The new approach uses bespoke trapezoidal panels and a copper backing tray to follow the curved roof edge, producing a visually coherent and technically robust integration of renewable technology within a traditional thatched form. The Urban Designer considers this an elegant and convincing resolution to a complex design challenge.

Although earlier comments highlighted that the internal layout had lost some of the sculptural qualities of the previous scheme, the external envelope, material strategy and technological integration are now regarded as successful and well-resolved. In its current form, the proposal is described as an attractive and sensitive addition, offering a distinctive, well-crafted building that enhances local character and demonstrates credible innovation aligned with NPPF paragraph 139, Strategy 48 of the Local Plan and Policy D1.

### *Landscape and Visual Impact*

The site lies just outside the Blackdown Hills National Landscape and is enclosed by existing hedgerows and mature trees. While the proposed dwelling would be visible from the public footpath and from Goldsmiths Lane, its reduced massing, use of natural materials, and subdued curved roofline mean it would sit comfortably within the existing cluster of buildings. As a result, it would not appear intrusive or isolated in wider views.

The sinuous building form and thatched roof further soften its visual presence and assist in integrating the dwelling into the surrounding landscape. The Council's Landscape Architect advises that, overall, the proposal is acceptable in landscape and visual terms. It is therefore considered to comply with Strategy 7 and Policy D1 in respect of landscape character, and with Strategy 46 regarding the setting of the National Landscape.

### *Sustainability and Energy as an Integral Component of the Design*

The environmental performance of the revised proposal forms a core part of the design concept and materially contributes to its assessment under NPPF paragraph 139(b). The DAS provides detailed SAP outputs confirming A-rated performance, significantly outperforming Building Regulations Part L requirements. The dwelling incorporates:

- a ground-source heat pump (GSHP),
- mechanical ventilation with heat recovery (MVHR),
- 7.5 kWp of photovoltaic panels integrated into the eaves line,

- 13.5 kWh battery storage, and
- a breathable bio-based fabric consisting of cob, straw bale insulation and wood fibre.

These measures collectively deliver zero-carbon operational performance, and the use of bio-based materials further reduces embodied carbon while enabling the sculptural, vernacular-referencing form. The holistic sustainability strategy goes beyond compliance and forms a fundamental part of the building's identity.

Crucially, the revised scheme does not treat sustainability as an add-on, but demonstrates a clear design logic in which the choice of materials, form, energy strategy and construction methods work together to achieve a genuinely innovative, highly sustainable rural dwelling.

### *Conclusion on Compliance with NPPF Paragraph 139(b)*

Paragraph 139(b) of the NPPF requires significant weight to be given to proposals that:

1. are outstanding or innovative,
2. promote high levels of sustainability, and
3. fit with the overall form and layout of their surroundings.

In the Great Halls, Aylesbeare appeal<sup>1</sup>, which was reported to Members in August 2025 (see Appendix 1), the Inspector confirmed that where all three elements are met, the benefits can outweigh conflict with Strategy 7 and accessibility-related policies, and can justify approval of rural dwellings outside settlement boundaries.

In this case:

- The dwelling is innovative in both architectural form and construction methodology, combining sinuous cob walls, straw bale insulation and thatch in a contemporary reinterpretation of Devon vernacular.
- It achieves very high levels of sustainability, evidenced by its SAP A-rating, zero-carbon performance, GSHP, MVHR, integrated PV, battery storage and bio-based fabric.
- The revised scale, massing and layout enable the dwelling to fit comfortably within the established pattern of development, addressing the Inspector's previous concerns.
- The integration of renewable energy technology within a curved thatched roof represents a rare and genuinely distinctive design solution.

Taken together, the proposal demonstrates full adherence to the criteria of paragraph 139(b). It represents an outstanding, innovative and highly sustainable design that fits with its surroundings and responds directly and positively to the Inspector's earlier findings. Accordingly, significant weight can be given to the design and sustainability credentials in the overall planning balance.

While the proposal is considered to meet the criteria of NPPF paragraph 139(b) and therefore attracts significant positive weight, it is nevertheless only one component of

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<sup>1</sup> Appeal Ref: APP/U1105/W/24/3353886, Allowed 22/07/2025

the overall planning judgement. Paragraph 139 does not operate as an alternative route to approval in its own right, nor does it displace the primacy of the development plan or the tilted balance required by paragraph 11(d). Instead, the outstanding design quality and high level of sustainability identified above form important material considerations to be weighed, alongside all other benefits and harms, in reaching the overall decision. These design-related benefits will therefore be taken forward into the planning balance, where they are given significant weight but are not determinative in isolation.

### Neighbouring Amenity

Separation to The Chestnuts/Chestnut Cottage is about 28m, aided by intervening hedging. The earlier concerns related to dominance from roof mass rather than overlooking; with the ridge reduced by about 1.7m and the visually dominant PV block removed from the roof plane, the oppressive relationship is resolved. No harmful overlooking, overshadowing or loss of privacy is anticipated. The proposal therefore complies with Policy D1 as it relates to residential amenity. In addition, the internal space comfortably exceeds the Nationally Described Space Standard for a 2-bed, 4-person two storey dwelling.

### Nutrient Neutrality / Habitats Regulations Assessment

The previous appeal turned, in part, on uncertainty over phosphate impacts to the River Axe SAC. Over the course of this application, a number of on- and off-site solutions were considered and found to fall short of the technical requirements. However, the application is now supported by a Nutrient Neutrality Assessment and a strategy to secure off-site mitigation via upgrade of an existing septic tank/treatment plant within the catchment, to be delivered through a Section 106 agreement. An Appropriate Assessment drafted on this basis has been accepted by Natural England.

Subject to completion of the S106, a Likely Significant Effect can be ruled out and the proposal accords with Strategy 47 and Policy EN19.

### Other Matters

Highway Safety and Access - The existing access from Goldsmiths Lane will be reused to serve one additional dwelling. The lane serves a very small number of dwellings and the highway authority has made no comment. On-site parking/turning can be accommodated to ensure vehicles enter and exit in forward gear. The proposal accords with Policies TC7 and TC9.

Trees - The site contains several mature boundary trees that contribute positively to local character. While both the Tree Officer and Landscape Architect highlight the need for BS5837 information, neither identifies any fundamental conflict between the proposed layout and the existing tree cover, and both confirm that development is achievable in principle. As the outstanding matters relate to construction methods rather than the siting or acceptability of the scheme, it is considered proportionate to secure a BS5837-compliant method statement and tree protection plan by

pre-commencement condition. Subject to this, the proposal is acceptable in arboricultural terms and compatible with Policy D3.

Ecology - An updated Extended Phase 1 Habitat Survey (2023) confirms that the site comprises rank neutral grassland, established native hedgerows and the remains of the former cottage, with no invasive species recorded. The building was assessed as having low bat roost potential, with emergence surveys in 2018 and 2023 confirming no roosts present; boundary vegetation supports low-level foraging by common bat species. The hedgerows offer potential dormouse habitat, and the grassland may support reptiles, but impacts are assessed as negligible due to the small scale of development and the retention of boundary features. Standard measures relating to vegetation clearance, lighting control and precautionary working practices are sufficient. Subject to these, the proposal raises no overriding ecological constraints and complies with Policy EN5.

Drainage - Surface water drainage is proposed via soakaway, with no consultee objection. This aligns with Policy EN22.

## **PLANNING BALANCE AND CONCLUSION**

The tilted balance in NPPF paragraph 11(d) is engaged due to the Council's current housing land supply position. In circumstances where relevant policies are out-of-date, paragraph 11(d) requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. In applying this balance, appropriate weight must still be given to policies that seek to direct development to sustainable locations.

In this case, the proposal conflicts with Strategy 5B and Policy TC2 of the Local Plan, as the site offers limited opportunities for travel other than by private car. This weighs against the scheme.

However, the principal harms identified in the previous appeal relating to dominance, scale and insufficient contextual sensitivity have been resolved. The Council's Urban Designer confirms that the revised dwelling now sits comfortably within its setting, responds positively to neighbouring properties, and achieves a high standard of design that is contextually appropriate.

In weighing benefits, the proposal's design quality and sustainability credentials attract significant positive weight. Paragraph 139(b) of the NPPF states that significant weight should be given to designs that are outstanding or innovative, promote high levels of sustainability, and fit with the overall form and layout of their surroundings. In this case:

- the design is innovative in its use of cob, straw-bale insulation, thatch and a bespoke integrated PV eaves detail;
- SAP data demonstrates very high sustainability performance, including zero-carbon operational credentials; and
- the revised massing and softened profile ensure an appropriate fit within the existing rural cluster.

These attributes weigh materially in favour of the proposal and the Aylesbeare appeal illustrates how high-quality, sustainable design can weigh positively when applying the tilted balance under paragraph 11(d).

When considered overall, the harm arising from reliance on the private car is limited and does not significantly or demonstrably outweigh the substantial benefits of delivering a highly sustainable dwelling of exceptional design quality that addresses previous concerns and makes a small but valuable contribution to housing supply.

Accordingly, the proposal represents sustainable development when assessed against the NPPF as a whole. Planning permission should therefore be granted, subject to the conditions set out below and completion of the Section 106 agreement securing the nutrient neutrality mitigation.

## **RECOMMENDATION**

ADOPT the Appropriate Assessment

and

APPROVE subject to the following conditions and a S106 agreement to secure a foul drainage upgrade:

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. (a) Prior to the commencement of any works on site (including demolition and site clearance or tree works),, a scheme for the protection of the retained trees, hedges and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], 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 protection scheme.  
  
(b) No operations shall be 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) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

(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.)

4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme which shall be implemented in full prior to first occupation of the dwelling.

(Reason - The details are required prior to commencement to ensure that they fit efficiently within the site layout, protect water quality and minimise flood risk in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the Adopted East Devon Local Plan 2013-2031 and the guidance contained with the National Planning Policy Framework.)

5. Foul drainage shall be dealt with by a package sewage treatment plant, which shall be sited so as not to cause pollution of any watercourse or water sources. Details of this treatment plant, its siting and method of discharge shall be submitted to and approved in writing by the Local Planning Authority before development commences. The development shall be carried out in accordance with the approved details and shall be provided in full prior to first occupation of the dwelling hereby approved and shall be retained and maintained as such for the lifetime of the development.

(Reason - To ensure that foul drainage is managed through a system of adequate capacity and design, and that its installation does not result in pollution of land or watercourses, in accordance with Policy EN19 - Adequacy of Foul Sewers and Sewage Treatment Systems of the Adopted East Devon Local Plan 2013-2031. The details are required prior to commencement to confirm that they fit within the site.)

6. Prior to any construction above slab level, full details and samples (where appropriate) of all external materials shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- (a) cob mix specification and finish;
- (b) straw bale insulation construction details;
- (c) thatch specification, detailing and ridge treatment (including the copper ridge);
- (d) external joinery and glazing systems;
- (e) colours and finishes.

The development shall be carried out strictly in accordance with the approved details.

(Reason - To ensure high quality design in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031 and to secure the outstanding/innovative qualities described in NPPF paragraph 139.)

7. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - 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.)

8. Prior to installation, large scale details (minimum 1:10) of the eaves line integrated photovoltaic system shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
- (a) panel profiles and bespoke curved/trapezoidal panel geometry;
  - (b) copper backing tray;
  - (c) methods of fixing;
  - (d) ventilation, weathering and waterproofing;
  - (e) junctions with the thatched roof.

The system shall be installed prior to first occupation of the dwelling and retained in accordance with the approved details.

(Reason - To ensure high quality design in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031 and to secure the outstanding/innovative qualities described in NPPF paragraph 139.)

9. The development shall be carried out strictly in accordance with the recommendations and mitigation measures set out in the Updated Extended Phase 1 Habitat Survey (JG Ecological Surveys Ltd, June 2023). Prior to

occupation, photographic evidence of installed ecological enhancements shall be submitted to the Local Planning Authority.

(Reason - To safeguard wildlife and provide biodiversity gains in accordance with Policy EN5 - Wildlife Habitats and Features of the Adopted East Devon Local Plan 2013-2031.)

10. Prior to first occupation, a written report shall be submitted to and approved in writing by the Local Planning Authority confirming that the sustainability measures identified in the Design & Access Statement (December 2023) have been installed and commissioned. These include:
  - (a) ground source heat pump;
  - (b) mechanical ventilation with heat recovery (MVHR);
  - (c) 7.5 kWp photovoltaic array;
  - (d) 13.5 kWh battery storage;
  - (e) breathable bio based fabric construction (cob, straw bale, wood fibre).The approved measures shall thereafter be retained and maintained for the lifetime of the development.

(Reason - To ensure the dwelling achieves the very high levels of sustainability that form a key component of the planning balance under NPPF paragraph 139.)
  
11. No external lighting shall be installed, including any temporary or security lighting, until a detailed lighting strategy for the site has first been submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall:
  - a) demonstrate compliance with the Bat Conservation Trust and Institute of Lighting Professionals (ILP) Guidance Note 08 (or any subsequent equivalent replacement guidance adopted at the time of submission);
  - b) include full details of the number, location, height, design, luminance levels, light spill contours, hours of operation and control systems of all proposed external lighting; and
  - c) demonstrate how the scheme will avoid illumination of boundary habitats and maintain dark corridors for nocturnal wildlife.External lighting shall thereafter be installed and operated only in accordance with the approved details, and no additional lighting shall be installed without the further written approval of the Local Planning Authority.

(Reason - To protect nocturnal wildlife and maintain the rural character of the area, in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031.)
  
12. Within six months of first occupation, a final SAP calculation and energy performance statement shall be submitted to the Local Planning Authority confirming that the dwelling achieves an "A" rating and performance in line with the design specification.

(Reason - To ensure the dwelling performs as a zero carbon building and delivers the sustainability credentials that form a key component of the planning balance under NPPF paragraph 139.)
  
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no freestanding

outbuildings, sheds, garden structures or other incidental buildings shall be erected within the curtilage without express planning permission.

(Reason - To preserve the uncluttered rural setting and ensure the design quality of the scheme is not eroded in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no enlargement of the dwellinghouse falling within Classes A, B and D of Part 1 of Schedule 2 of the Order shall be carried out without the prior express planning permission of the Local Planning Authority.

(Reason - To preserve the design quality and appearance of the dwelling and to prevent extensions that could detract from its character or impact the surrounding area, in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative:

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

##### **Biodiversity Net Gain 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 **not require the approval of a biodiversity gain plan** before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemption 1 from the list below is considered to apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.5 Self and Custom Build Development, meaning development which:

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

Irreplaceable habitat

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

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

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

Plans relating to this application:

E100 REV B	Location Plan	08.12.23
P100 H	Proposed Site Plan	19.12.24
P200 F	Proposed Floor Plans	29.10.24
P300 D	Proposed Elevation	29.10.24
P301 D	Proposed Elevation	29.10.24

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.

## Appendix 1 – Great Halls, Village Way, Aylesbeare appeal decision summary

Ref: 23/2422/FUL

Appeal Ref: 24/00066/REF

Appellant: Mr & Mrs Brinton Appeal

Site: Land to the rear of Great Halls Village Way Aylesbeare

Proposal: Erection of highly sustainable self-build dwelling with associated landscaping and biodiversity enhancements.

Decision: Appeal Allowed (with conditions) Date: 22.07.2025

Procedure: Written representations

Remarks: Delegated refusal, accessibility reasons overruled (EDLP PolicyTC2, Strategies 5B, 7)

The Inspector noted that facilities in Aylesbeare are limited to a single pub, church, playground and village hall and bus services are limited. As such it would be likely that future occupants of the proposed dwelling would meet their day to day needs by using a private car. The proposal would therefore conflict with Policies TC2 and 5B of the LP, which seek to ensure that development proposals minimise the need to travel by car and encourage the use of sustainable modes of transport.

The Inspector found that the proposal would be both outstanding and innovative and it would promote high levels of sustainability and help raise the standard of design more generally in the area. The proposal would not harm the character or appearance of the area, it would be well related to the existing built form in Aylesbeare and would thus contribute to the vitality of an existing community and its existing services. Although services in the village are limited, some do exist and basic options for travel by public transport are available. These factors also modestly weigh in favour of the proposal. Furthermore, there would be the benefit of the delivery of a new dwelling in the context of the Government's ambitions to significantly boost the supply of new housing. Taken together these benefits carry considerable weight.

The Inspector concluded that when considered together the benefits of the proposal are material considerations that are of sufficient weight to outweigh the proposal's conflict with Strategy 7 and Policies TC2 and 5B of the LP.

BVPI 204: Yes Planning Inspectorate Ref: APP/U1105/W/24/3353886