

**Ward** West Hill And Aylesbeare

**Reference** 19/2834/OUT & 20/0482/RES

**Applicant** Mr E Flowers

**Location** Hasta La Vista Windmill Lane West Hill Ottery St Mary EX11 1JP

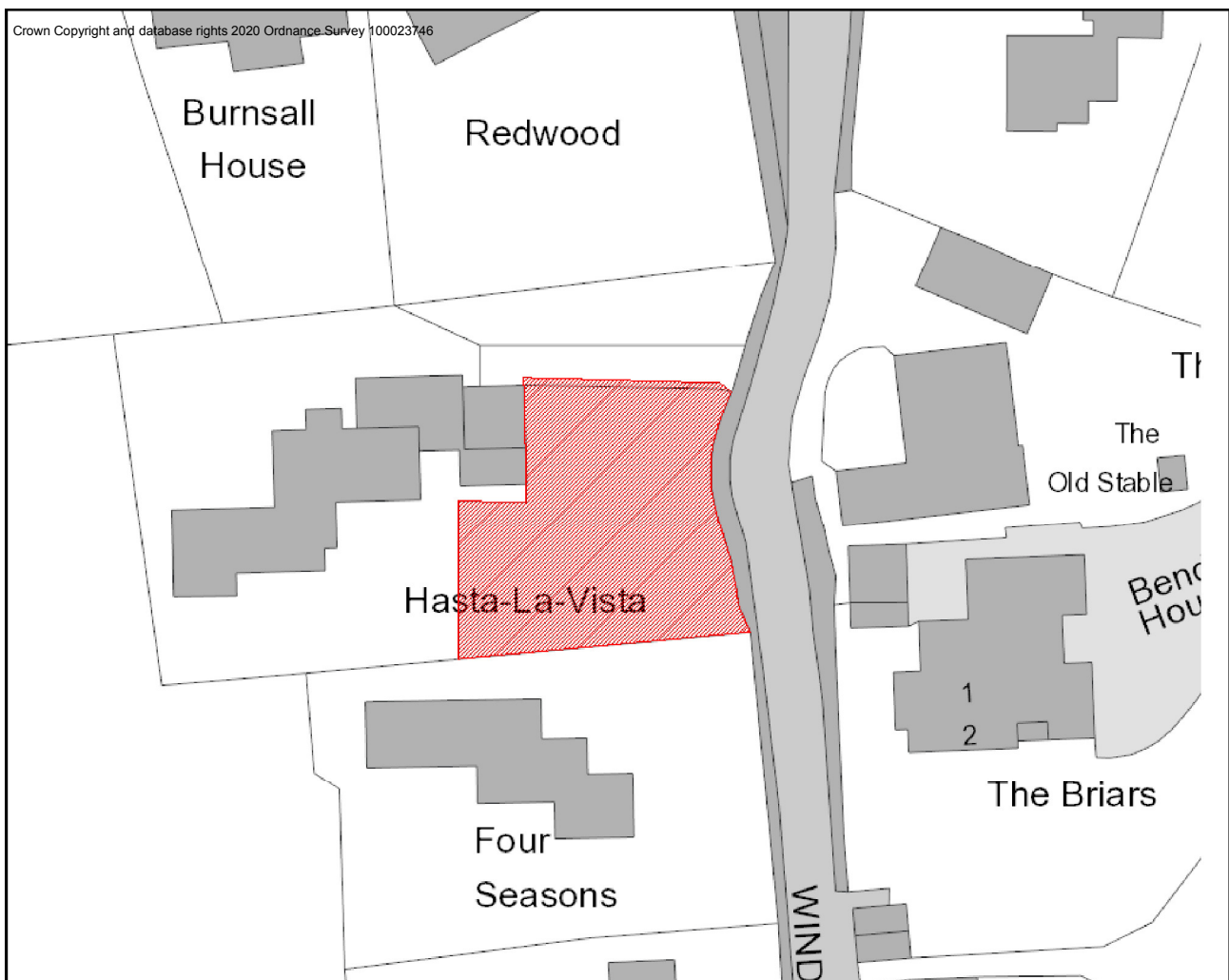
**Proposal** (19/2834/OUT) Outline application for the construction of a single dwelling house with all matters reserved  
(20/0482/RES) Application for approval of reserved matters (access, appearance, landscaping, layout and scale) for the construction of a new dwelling house pursuant to outline planning permission 16/2517/OUT



**RECOMMENDATION 19/2834/OUT:**

1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;
2. That the application be **APPROVED** subject to conditions.

**RECOMMENDATION 20/0482/RES: Approval with conditions**



|   |  |  |
|---|--|--|
|   |  | <b>Committee Date: 29<sup>th</sup> July 2020</b> |
| <b>West Hill And Aylesbeare (West Hill)</b> | <b>19/2834/OUT</b>   | <b>Target Date: 04.03.2020</b>                   |
| <b>Applicant:</b>                           | <b>Mr E Flowers</b>  |  |
| <b>Location:</b>                            | <b>Hasta La Vista Windmill Lane</b>  |  |
| <b>Proposal:</b>                            | <b>Outline application for the construction of a single dwelling house with all matters reserved</b> |  |

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|   |  | <b>Committee Date: 29<sup>th</sup> July 2020</b> |
| <b>West Hill And Aylesbeare (West Hill)</b> | <b>20/0482/RES</b>   | <b>Target Date: 28.04.2020</b>                   |
| <b>Applicant:</b>                           | <b>Mr E Flowers</b>  |  |
| <b>Location:</b>                            | <b>Hasta La Vista Windmill Lane</b>  |  |
| <b>Proposal:</b>                            | <b>Application for approval of reserved matters (access, appearance, landscaping, layout and scale) for the construction of a new dwelling house pursuant to outline planning permission 16/2517/OUT</b> |  |

**RECOMMENDATION: Approval with conditions**

**UPDATE REPORT**

Members will recall that these two applications were deferred at the Planning Committee on the 15<sup>th</sup> July 2020 to await the outcome of the Business and Planning Bill in relation

to the extension of timescales for the implementation of planning permissions as this was considered to be a material consideration that required clarification.

Although the Bill has not been made into law at the date of the publication of this report, it is expected to become law before the Committee consider the applications again, and more relevant is the fact that the Bill clarifies the dates to which the intended extensions of planning permission will apply.

The legislation as currently drafted, and been through both the House of Commons and House of Lords, clarifies that planning permissions that expired after the 23<sup>rd</sup> March 2020 will be extended until the 1<sup>st</sup> May 2021.

This is relevant in relation to the Outline application in front of Members as it expired on the 7<sup>th</sup> March 2020. As such, even when the Bill comes into force, it will not apply to application 16/2517/OUT.

However, the decision that Members make in relation to the reserve matters application 20/0482/RES in front of them is very relevant to the consideration of outline application 16/2517/OUT.

Should Members approve application 20/0482/RES, this means that the site will benefit from planning permission for construction of a dwelling. The ability of the applicant to build the bungalow on the site is a material consideration of considerable weight when determining the outline application. This is on the basis that as permission will exist on the site for a bungalow that can be built out anytime over the next two years, it would be unreasonable to refuse outline consent for a similar development. This is despite the introduction of the Neighbourhood Plan policies that are more restrictive in preventing infill/backland developments in West Hill (these Neighbourhood Plan policies can however be used to resist similar development in West Hill, but only where there is no fall-back position already in place).

Whilst the converse is true, in that refusal of the reserve matters application would mean that there is no consent on the site and that the outline permission could be refused on the basis that the applicant is out of time to submit a further reserve matters application, does not have a fall-back position, and the proposal could be argued to be contrary to the Neighbourhood Plan, there are not considered to be any sound grounds on which to refuse reserve matters consent.

Members cannot revisit the principle of development under the reserve matters application. Members can only consider whether the design of the bungalow, access and landscaping are suitable and as detailed in the original report, these matters are considered to be acceptable and officers cannot find any sound grounds for refusal.

In summary, in light of the fact that it would be very difficult to justify refusal of the reserve matters application, and that the grant of this application provides the applicant with consent to construct a dwelling on the site and as such a strong fall-back position, it would also prove very difficult to justify refusal of the further outline consent.

In light of the above, the original recommendations in the attached original report to Members remains.

## ORIGINAL REPORT

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|---|--|--|
|   |  | <b>Committee Date: 15<sup>th</sup> July 2020</b> |
| <b>West Hill And Aylesbeare (West Hill)</b> | <b>19/2834/OUT</b>   | <b>Target Date: 04.03.2020</b>                   |
| <b>Applicant:</b>                           | <b>Mr E Flowers</b>  |  |
| <b>Location:</b>                            | <b>Hasta La Vista Windmill Lane</b>  |  |
| <b>Proposal:</b>                            | <b>Outline application for the construction of a single dwelling house with all matters reserved</b> |  |

**RECOMMENDATION:**

- 1. That the Habitat Regulations Appropriate Assessment attached to this Committee Report be adopted;**
- 2. That the application be APPROVED subject to conditions.**

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| <b>West Hill And Aylesbeare (West Hill)</b> | <b>20/0482/RES</b>   | <b>Target Date: 28.04.2020</b> |
| <b>Applicant:</b>                           | <b>Mr E Flowers</b>  |                                |
| <b>Location:</b>                            | <b>Hasta La Vista Windmill Lane</b>  |                                |
| <b>Proposal:</b>                            | <b>Application for approval of reserved matters (access, appearance, landscaping, layout and scale) for the construction of a new dwelling house pursuant to outline planning permission 16/2517/OUT</b> |                                |

**RECOMMENDATION: Approval with conditions**

## **EXECUTIVE SUMMARY**

**These two applications at the same site are related and before Members as the officer recommendation for application 19/2834/OUT differs from that of a Local Ward Members comments. As the applications are related, and for the same residential development, albeit one in outline form and one for reserve matters consent, it was considered that both applications should be presented to Members for determination.**

**The site has had a previous outline planning permission approved for the construction of a single dwelling under reference 16/2517/OUT. The first application seeks a further outline consent for the site whilst the second application seeks reserved matters consent following the previous outline consent.**

**Since the approval of the original outline consent, the Ottery St Mary and West Hill Neighbourhood Plan has been adopted. The document now forms part of the development plan and includes a policy that specifically addresses applications for infill, backland and residential development (Policy NP3: Infill, Backland and Residential Garden Development). There is also a specific design policy for West Hill (Policy NP26).**

**Whilst concerns raised by the Parish Council and Ward Member are acknowledged, the construction of a dwelling east of Hasta La Vista is considered achievable whilst respecting the character of the immediate area and retaining the amenity of adjoining properties. Notwithstanding its limited size and area, the plot is capable of accommodating a single storey dwelling of modest proportions. This resulted in the grant of outline consent in 2017 under reference 17/2517/OUT and given this there are not considered to be sound grounds to resist the grant of a second outline consent for identical development.**

**The reserve matters application seeks consent for a detailed layout and design of dwelling proposing a 'T' shaped bungalow with a north facing gable and hipped western and eastern projections. The submitted elevations indicate that the dwelling would be constructed with a brick plinth, finished in render with a tiled roof. Four PV panels are proposed along the southern roof slope. A beech hedge will be planted to the eastern boundary alongside Windmill Lane, replacing the existing Leylandii. This hedging would be reduced in overall length to provide space for the new dwelling to have its own access. The western area of the site that immediately adjoins the new dwelling would be levelled as a patio area with steps leading up to a small area of lawn enclosed by a retaining wall.**

**Notwithstanding its limited size and area, the proposed bungalow would not appear unduly harmful to the character or appearance of the street scene of Windmill Lane or result in any materially adverse impact upon the living conditions of the occupiers of neighbouring or nearby residential properties. Furthermore, it is considered that development can be accommodated without compromising the health or integrity of the adjacent protected Walnut tree.**

**In light of the previous grant of outline planning permission, and the visual impact of the proposed dwelling being considered to be acceptable with no wider harm caused, both applications are recommended for approval subject to conditions that are set out at the end of this report.**

## **CONSULTATION RESPONSES FOR OUTLINE APPLICATION 19/2834/OUT**

### **Local Consultations**

#### **Parish/Town Council**

This application was discussed at the West Hill Parish Council meeting on 4th February 2020. Councillors noted that the Neighbourhood Plan had been made since the previous application had been approved. Councillors also considered the adverse impact of the proposed development on nearby trees. It was noted that the submitted Tree Survey (from 2014) is out of date and is not a current assessment.

Councillors do not support the application for the following reasons

- contrary to Policy NP3: Infill, Backland and Residential Garden Development and NP26 West Hill Design. The development would lead to over-development of the site or the appearance of cramming, and the proposals do not reflect the character of the surrounding area, and the density is not appropriate to the immediate surrounding area.
- support the serious concerns expressed by the Tree Officers
- submitted Tree Survey is out of date and as such is invalid.

#### **West Hill And Aylesbeare - Cllr Jess Bailey**

I wish to register my OBJECTION to this application for the following reasons:

1. It does not comply with the neighbourhood plan which has been adopted since the previous consent was granted. The NP contains very clear policies on overdevelopment, cramming, and density which this application will breach; and
2. The arbo Officer has registered his serious concerns - all of which I endorse.

### **Technical Consultations**

#### **EDDC Trees**

22.01.2020

I have serious concerns on arboriculture grounds with this proposal for the following reasoning:

- The Arboricultural report is 5 years out of date and in accurate.
- The tree survey, incorrectly identifies and classifies T1 which is a walnut and class A1/B1
- Any location of a dwelling must take into account the shading caused by T1 and any future growth of the tree which cause pressure to have this tree pruned.

Further comments 13.02.2020:

I still have concerns over this proposal, as there is no footprint of the building it is difficult to respond accurately. I feel the standard circular RPA should be offset into the site due to the loss of rooting zone by the neighbouring driveway and the road. Consideration should be made for the location of the windows and the large mass of the tree, which stretches beyond the shading of the tree, there has to a liveability between the existing tree and the proposal to reduce the pressure on pruning or requests for removal by any new occupier

Further comments 06.05.2020:

I have reviewed the file on this application and consider that the three issues raised by David Lomas are in principle relevant, but in practice the arboricultural impact of the proposed development will be minimal.

The planning officer report correctly appraises the relative arboricultural views, as well as the case history of past tree related refusal decisions. I fully support the planning officers conclusion to recommend the application be approved.

### **Other Representations**

None

## **CONSULTATION RESPONSES FOR RESERVE MATTERS APPLICATION: 20/0482/RES**

### **Local Consultations**

#### Parish/Town Council

19/03/20 - This application was considered at the West Hill Parish Council Meeting on 17th March 2020.

Councillors had no objection to the application, subject to the Tree Officers being satisfied with the RPA for the walnut tree in the adjacent garden.

### **Technical Consultations**

#### EDDC Trees

26.03.2020

Although the footprint of the dwelling is acceptable on arboricultural terms I do have concerns about the windows to the south of the dwelling, as these will be shaded by the neighbouring tree and consideration should be given to these being removed. I am also concerned about the 'air source heat pump' and any underground cabling and emissions which could have a long term effect on the tree, and also the TPF should be moved further from th tree as there is a likelihood of more roots in this area due to the hard-standing in other areas

Further comments 06.05.2020:

I have reviewed the file on this application and consider that the three issues raised by David Lomas are in principle relevant, but in practice the arboricultural impact of the proposed development will be minimal.

The planning officer report correctly appraises the relative arboricultural views, as well as the case history of past tree related refusal decisions. I fully support the planning officers conclusion to recommend the application be approved.

### **Other Representations**

None

### **PLANNING HISTORY**

| <b>Reference</b> | <b>Description</b>  | <b>Decision</b>          | <b>Date</b> |
|------------------|---|--------------------------|-------------|
| 16/2517/OUT      | Outline application for the construction of a new dwelling house with all matters reserved. | Approval with conditions | 07.03.2017  |
| 11/0929/TRE      | Felling of one Ash tree   | Approval with conditions | 13.06.2011  |

### **POLICIES**

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

Strategy 6 (Development within Built-up Area Boundaries)

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

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

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

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Ottery St Mary and West Hill Neighbourhood Plan

NP3 (Infill, Backland and Residential Garden Development)

NP26 (West Hill Design)

### **Site Description and Location**

The site comprises of a plot of land approximately 0.045 hectares in area that currently forms the front garden of Hasta La Vista, a detached residential property located on the west side of Windmill Lane, a residential cul de sac, towards the north western corner of the built-up area of West Hill.



The existing dwelling itself is set well back within the curtilage, the overall area of which is around 1 hectare, and is positioned towards its north western corner. Vehicular access is taken from Windmill Lane at a point positioned towards the north eastern corner of the plot and application site.

The plot is mainly laid to lawn with some shrubs and rises gently from its road frontage, which is defined by established, and mainly evergreen, hedge and tree planting to the rear of a low stone wall, to the west.

Windmill Lane is characterised by a mix of detached houses, bungalows and older properties that are sub-divided into flats set within plots of varying areas and configurations with, in some cases, building forms positioned close to plot frontages that are predominantly either open or defined by tree and hedge planting. It is therefore perhaps slightly less typical of the lower density layout and spacious settings of many residential properties elsewhere throughout West Hill.

### **Proposed Development**

#### **19/2834/OUT:**

This application seeks outline permission, with all matters reserved, for the construction of a dwelling. Whilst all matters, including layout, scale, landscaping and access are reserved for later consideration. The application does include some indicative detail. The submitted site plan aims to communicate how a single storey dwelling could be accommodated within the plot. This shows a shared vehicular access with the host property of Hasta La Vista onto Windmill Lane.

#### **20/0482/RES:**

This fully detailed application proposes a 'T' shaped bungalow with a north facing gable and hipped western and eastern projections. The submitted elevations indicate that the dwelling would be constructed with a brick plinth, finished in render with a tiled roof. Four PV panels are proposed along the southern roof slope. A beech hedge will be planted to the eastern boundary alongside Windmill Lane, replacing the existing Leylandii. This hedging would be reduced in overall length to provide space for the new dwelling to have its own access. The western area of the site that immediately adjoins the new dwelling would be levelled as a patio area with steps leading up to a small area of lawn enclosed by a retaining wall.

Policy within the East Devon Local Plan and Ottery St Mary and West Hill Neighbourhood Plan shall be considered in addition to guidance within the National Planning Policy Guidance.

### **ANALYSIS**

The main issues for consideration are the principle of development (that relates to both applications), visual impact, impact upon neighbouring amenity, impact on tree and highway safety (that relate more to the reserve matters application as a detailed design and layout is proposed but need consideration in terms of the outline application to ensure that the site is capable of accommodating a dwelling).

## **Principle of Development**

The site is located within the Built-up area boundary of West Hill as defined within the adopted East Devon Villages Plan. Therefore the site is considered to occupy a sustainable location within an area considered appropriate in principle to accommodate additional residential development.

Over recent years West Hill has seen comparatively high levels of infill village development as people have subdivided large gardens to accommodate additional new dwellings. There has, more recently, been outward expansion of the village to accommodate new houses.

The Neighbourhood Plan through Policy NP3 supports infill, backland and residential garden development in principle stating that such development will only be permitted where it reflects the character of the area, is of an appropriate density, benefits from adequate parking provision and has boundary treatments that reflect the area.

In light of the support for development within the Built-up Area Boundary of West Hill provided by the Local Plan, Villages Plan and Neighbourhood Plan, residential development of the site is acceptable in principle.

## **Visual Impact**

Objections have been raised by a Local Ward Member and the Parish Council with regards to the developments relationship with adjacent and nearby properties. Comments made by the Parish Council have referred to Policies NP3 and NP26 (West Hill Design) of the Neighbourhood Plan and, in particular, express concerns of the proposal failing to conserve the low density pattern of development of West Hill.

Policy NP3 states that proposal ‘...should reflect the character of the surrounding area...’, ‘...be informed by the scale, mass, height and form of neighbours;’ ‘...demonstrate that the development is of a density appropriate to the immediate surrounding area;’ and that ‘Adequate provision must be made for private amenity space and off street parking...’.

Policy NP26 relates specifically to West Hill and states the following:

‘Proposals for development should reflect the established character and development pattern of their surroundings and should preserve key features of the village, including trees, hedgebanks, spacious gardens and individuality between properties.

Proposals for new residential development in West Hill should incorporate the following design principles:

1. New development will maintain the low density pattern of development in West Hill and should reflect built density and layout of the surroundings;

2. Proposals for the developments of more than one dwelling must show individual variation between units whilst respecting the character of the immediate surrounding area;
3. Proposals for development will include adequate off road parking;
4. Access to properties will be designed to minimise harm to Devon banks/hedges and be designed to enhance the street scene;
5. Where new boundaries are required (including frontages), these should consist of Devon banks or hedges incorporating native species, rather than metal or closeboarded fences or brick walls;
6. Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted.
7. In cases where a proposal for development is likely to affect existing trees, applications should be accompanied by a tree survey that establishes the health and longevity of any affected trees;
8. New development should demonstrate that adequate landscaping proposals have been included to reflect the existing landscape character of the surrounding area;
9. Permeable surfaces, such as gravel or grass, should be used in place of nonpermeable surfaces wherever possible.

Proposals should be supported by a design statement setting out how the above design principles have been met (in addition to the Requirements of Policies NP2, NP3 and the Local Plan).'

It is acknowledged that the plot is modest in size and any subsequent dwelling would need to have a limited footprint to reflect this and enable the provision of suitable amenity space and parking whilst protecting existing landscape features. Additionally it is accepted that the plot is small when compared to the spacious character, layout and pattern of development that prevails throughout the remainder of West Hill. However, Windmill Lane itself is characterized by smaller plots with dwellings and outbuildings positioned in close proximity to their highway frontages with very limited front garden areas. As such, it is not considered that the construction of a modest dwelling on the plot close to its highway boundary would appear unduly harmful to the character or appearance to the street scene of Windmill Lane.

Whilst the Neighbourhood Plan was not a material consideration during the assessment and approval of the previous outline application (16/2517/OUT) in 2017, it is considered that the objectives of Policies NP3 and NP26 are reflected within Policy D1 (Design and local Distinctiveness) of the East Devon Local Plan. The delegated officer's report for application 16/2517/OUT, detailed how the development, when assessed against Policy D1, was deemed acceptable and would not be out of character.

Due to the well landscaped nature of the road, public views of the proposed dwelling would be restricted to, and most prominent from, the northern most part of Windmill Lane where it will be viewed in association with the dwellings opposite that sit at the back edge of the road. Therefore it is not considered that the development would result in material harm to this part of settlement such that it could be reasonably resisted. Whilst concerns expressed by the Parish Council and Ward member are duly

acknowledged, it is considered that the reserved matters application puts forward a scheme that would be sympathetic to the prevailing character of Windmill Lane.

The reserved matters application has provided other statutory consultees an opportunity to consider a fully detailed scheme. In this instance, no comments or objections have been raised by the other statutory consultees on the grounds of unacceptable design or subsequent impact upon the character of the area.

The proposed location of the dwelling and reduction in the amount of hedging to the east along Windmill Lane would result in the development being visible from the northern end of Windmill Lane. However the design approach of a single storey dwelling, despite being located close to the highway, is considered in keeping with the character of Windmill Lane. The use of brick, render and tiles frequently appears on other residential buildings within the immediate area and therefore their use is considered appropriate.

Adequate off-road parking is proposed, along with the retention of the boundary hedge and tree on the site boundary.

Overall, the site plans communicate a modest dwelling within the site with an appropriate level of outdoor amenity space, parking and landscaping. The ratio of the footprint and garden is thought to be similar to that exhibited at other properties along Windmill Lane. Additionally, the design, scale and form of the bungalow reflects what was envisaged at outline stage and is therefore considered sympathetic to the character of Windmill Lane. As such the applications are considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) of the Local Plan and Policy NP26 (West Hill Design).

### **Impact upon Neighbouring Amenity**

The existing boundary to the south ensures that the dwelling would be unlikely result in any harm detrimental to the living conditions to occupiers of Four Seasons. Additionally the boundary to the north consists of dense mature tree growth that completely screens the site from views along the rear gardens of properties along Bendarroch Road. The landscaped boundary with the road and presence of the road itself provide adequate separation with the dwelling on opposite side of Windmill Lane. Obviously the single-storey nature of the proposed dwelling reduces the potential for any harmful impacts upon surrounding properties.

The area with the potential for the greatest impact is therefore be upon the host dwelling itself. The land rises slightly rise from east to west and therefore the proposed dwelling is located on lower lying ground and as such would not be physically overbearing or dominating to the amenity enjoyed at Hasta La Vista. The proposed dwelling's primary outlook would be to the north and west. The bedrooms would have a primary outlook to the north over the existing driveway. The living and dining space would have a main outlook to the west through two sets of bi-folding doors. Whilst these doors face towards part of the host dwellings outdoor amenity space, the difference between levels in addition to the proposed hedging ensure that overlooking is not an issue.

In light of the above the impact upon neighbouring amenity is considered to be acceptable.

### **Impact on Trees**

The applications necessitate the removal of two small individual trees, annotated as T3 and T4 on the Constraints Plan, and the removal and replacement of G2. These two trees are considered to be of little amenity value and their loss is not considered unduly harmful or of any particular significance to warrant the need for replanting.

To the south east of the site, in the north eastern corner of Four Season's garden, is a mature Walnut tree which is approximately 17 metres tall. The arboriculture report, conducted by Devon Tree Services, categorises the tree as a 'B1' which allocates it as a tree with moderate quality. The Walnut is protected under a Tree Preservation Order (TPO) and plays an active role in providing visual amenity along Windmill Lane.

Turning to the relationship of the development with the existing Walnut, concerns were initially raised by Officers in relation to the location of the dwelling to the tree and the consequential pressure that may result in future pruning works to the Walnut, more especially in the light of the level of shading to some of the southern facing windows. These concerns do not relate to the footprint of the dwelling or its construction impacting upon the tree.

In response the applicant submitted a Tree Protection Plan that includes a shade arc cast by the Walnut tree in question. During morning hours it is anticipated that the windows serving the kitchen and utility room would be shaded, however, from midday onwards, the windows would receive direct sunlight. As such, there are concerns over prospective occupants potentially seeking to prune the Walnut and subsequently altering the shape of the crown and therefore the amenity value of the tree.

The Council has recently refused two applications, upheld at appeal, on the grounds of 'liveability' where it appeared inevitable that future occupiers of the proposed development would seek to prune or even fell trees at some future point in order to maintain or improve their living conditions. Applications 18/1798/FUL (APP/U1105/W/19/3235304) and 18/2151/FUL (APP/U1105/W/19/3233336) both proposed the construction of dwellings that were subsequently refused and upheld by the inspector mainly, or partly, over concerns of anticipated living conditions and subsequent pressure to prune the crowns of protected trees.

However, in both cases, concerns related to a number of trees on each site that would shade multiple habitable rooms and significant parts of the garden throughout the day. The lack of natural light available to the dwellings and outdoor amenity spaces would inevitably result in future occupiers of the developments seeking to prune trees at some point in the future to maintain or improve their living conditions. Significant pruning and/or felling of the trees at the appeal sites would result in significant harm to the character and appearance of the surrounding areas and as such both appeals were dismissed.

In this case, the shading caused by the Walnut would only impact one habitable room (Kitchen) for a relatively short period of the day. Additionally, the canopy of the Walnut

tree already has a clearance of almost 9 metres over the ground level of the garden due to past pruning. Whilst the appeal decisions at Sidmouth and Exmouth establish that such reasons for refusal are well founded when a certain level of harm is inevitable, the potential harm in this case, and associated risk of this harm arising, is considered to be relatively low.

As such, whilst comments from the Town Council are duly acknowledged, and following further discussion and consultation with the Council's Tree Officers, it is not considered reasonable to refuse the applications on the grounds of potential harm brought about by future pruning to the Walnut tree.

## **Highways**

The application proposes a shared access with the host dwelling of Hasta La Vista. The County Highway Team have not come forward with any comments and the access is suitable to serve two dwellings.

The site plan proposes that two parking spaces would be incorporated along the eastern boundary in tandem with one located under a car port. It is considered that sufficient parking and turning could be provided for at least two cars on the site.

## **Habitat Mitigation and Appropriate Assessment**

The nature of the outline application and its location close to the Pebblebed Heaths and its European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

## **CONCLUSION**

The site has had a previous outline permission for the construction of a single dwelling under reference 16/2517/OUT. Since the approval of the original outline, the Ottery St Mary and West Hill Neighbourhood Plan has been adopted. The document, that now carries full weight and forms part of the development plan, and includes policies that specifically addresses applications for infill, backland and residential development (Policy NP3) and the design of dwellings (NP26) in West Hill.

Whilst the concerns raised by the Parish Council and Ward Member are acknowledged, the construction of a dwelling east of Hasta La Vista is considered possible whilst respecting the character of the immediate area and retaining neighbouring amenity. Notwithstanding its limited size and area, the plot is capable of accommodating a single storey dwelling of modest proportions and would not be out of character with the immediate area where dwellings on smaller plots are located close to the highway.

Having regard to the balance of considerations set out above it is thought that notwithstanding its limited size and area, the proposed bungalow would not appear unduly harmful to the character or appearance of the street scene of Windmill Lane or result in any materially adverse impact upon the living conditions of the occupiers of neighbouring or nearby residential properties.

Furthermore, it is considered that development could be accommodated without compromising the health or integrity of the adjacent protected Walnut tree.

It is therefore recommended that both the outline application and the proposal for reserve matters consent be granted.

## **RECOMMENDATIONS**

### **Recommendation 1 - 19/2834/OUT:**

- 1. ADOPT the Habitat Regulations Appropriate Assessment that forms part of the report; and,**
- 2. APPROVE subject to the following conditions:**
  1. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
  2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).
  3. The approved landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the adopted East Devon Local Plan 2013-2031.)

4. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details. In any event, the following restrictions shall be strictly observed:

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no development of the types described in Classes A, B or E of Part 1, or Class A of Part 2, of Schedule 2 to the Order shall be carried out without a grant of express planning permission from the Local Planning Authority.

(Reason - To enable the Local Planning Authority to retain control over operations that would not ordinarily require a grant of planning permission in the interests of preventing overdevelopment of the site and to comply with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013 - 2031.)



6. The development shall take the form of a single storey dwelling (and for the avoidance of doubt a chalet type bungalow is not regarded as a single storey dwelling). (Reason - 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.)

Plans relating to this application: 19/2834/OUT

P1920:01                      Location Plan                      23.12.19

**Recommendation 2 - 20/0482/RES:**

**APPROVE subject to the following conditions:**

1. East Devon District Council as Local Planning Authority HEREBY APPROVE THE FOLLOWING RESERVED MATTERS of the above described development proposed in the application numbered as shown above and in the plans and drawings attached thereto, copies of which are attached to this notice relating to:-
  - (a) Access
  - (b) Appearance
  - (c) Landscaping
  - (d) Layout
  - (e) Scale

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission (ref. No. 16/2517/OUT) granted on 7th March 2017.

The following reserved matters have yet to be approved:

None

The following conditions attached to the Outline Planning Permission (ref. No. 16/2517/OUT) referred to above and relating to the site covered by this reserved matters application are hereby discharged, have previously been discharged or remain to be complied with on-site but without the need for the submission of details or separate agreement:

1, 2, 3, 4, 6, 7

2. Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the Arboricultural Report and method statement submitted by Devon Tree Services on the 28 February 2020 and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority

In any event, the following restrictions shall be strictly observed:

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no development of the types described in Classes A, B or E of Part 1, or Class A of Part 2, of Schedule 2 to the Order shall be carried out without a grant of express planning permission from the Local Planning Authority.

(Reason - To enable the Local Planning Authority to retain control over operations that would not ordinarily require a grant of planning permission in the interests of preventing overdevelopment of the site and to comply with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013 - 2031.)

Plans relating to this application:

|           |                      |          |
|-----------|----------------------|----------|
|           | Location Plan        | 02.03.20 |
| P1920:105 | Proposed Site Plan   | 02.03.20 |
| P1920:106 | Proposed Floor Plans | 02.03.20 |

|                      |                         |          |
|----------------------|-------------------------|----------|
| P1920:103            | Proposed Site Plan      | 02.03.20 |
| P1920:107            | Proposed Combined Plans | 02.03.20 |
| DTS19.1167.2.T<br>PP | Tree Protection Plan    | 02.03.20 |

List of Background Papers

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