

# Agenda for Development Management Committee

## Tuesday, 6 December 2016; 10.30am



### [Members of the Committee](#)

**Venue:** Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

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01395 517542, Issued 24 November 2016

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### [Speaking on planning applications](#)

In order to speak on an application being considered by the Development Management Committee you must have submitted written comments during the consultation stage of the application. Those that have commented on an application being considered by the Committee will receive a letter or email (approximately 9 working days before the meeting) detailing the date and time of the meeting and instructions on how to register to speak. The letter/email will have a reference number, which you will need to provide in order to register. Speakers will have 3 minutes to make their representation. **Please note there is no longer the ability to register to speak on the day of the meeting.**

The number of people that can speak on each application is limited to:

- Major applications – parish/town council representative, 5 supporters, 5 objectors and the applicant or agent
- Minor/Other applications – parish/town council representative, 2 supporters, 2 objectors and the applicant or agent

The day before the meeting a revised running order for the applications being considered by the Committee will be posted on the council's website (<http://eastdevon.gov.uk/council-and-democracy/committees-and-meetings/development-management-committee/development-management-committee-agendas>). Applications with registered speakers will be taken first.

**Parish and town council representatives wishing to speak on an application are also required to pre-register in advance of the meeting.** One representative can be registered to speak on behalf of the Council from 10am on Monday 28 November up until 12 noon on Thursday 1 December by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

### [Speaking on non-planning application items](#)

A maximum of two speakers from the public are allowed to speak on agenda items that are not planning applications on which the Committee is making a decision (items on which you can register to speak will be highlighted on the agenda). Speakers will have 3 minutes to make their representation. You can register to speak on these items up until 12 noon, 3 working days before the meeting by emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk) or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

- 1 Minutes of the Development Management Committee meeting held on 1 November 2016 (page 4 - 9)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#)
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

- 6 **Planning appeal statistics** (page 10 - 13)  
Development Manager

- 7 **Applications for determination**  
**Please note the following applications are all scheduled to be considered in the morning, however the order may change – please see the front of the agenda for when the revised order will be published.**

**16/0872/MFUL (Major)** (page 14 - 88)  
Sidmouth Town  
Council Offices, Knowle, Sidmouth EX10 8HL

**16/2449/HRN (Other)** (page 89 - 92)  
Newton Poppleford and Harpford  
Land at Littledown Lane, Newton Poppleford

### **Break**

(Lunch will be provided for Development Management Committee members)

**Afternoon Session – the items applications below will not be considered before 2pm.**

**Please note the following applications are all scheduled to be considered in the afternoon, however the order may change – please see the front of the agenda for when the revised order will be published.**

**16/1673/OUT (Minor)** (page 93 - 120)  
Budleigh Salterton  
Land at Frogmore Road, East of Oak Hill, East Budleigh

**16/0835/FUL (Minor)** (page 121 - 127)  
Exmouth Littleham  
12 Stevenstone Road, Exmouth EX8 2EP

**16/1212/FUL (Minor)** (page 128 - 140)  
Raleigh  
Compound 60, Greendale Business Park, Woodbury Salterton EX5 1EW

**16/2101/FUL (Minor)** (page 141 - 151)

Trinity

Lymewood Retirement Home, Lyme Road, Uplyme, Lyme Regis DT7 3XA

**15/0982/VAR and 16/1062/V106 (Minor)** (page 152 - 171)

Woodbury and Lympstone

Land to South Broadway, Woodbury

**16/0582/FUL (Minor)** (page 172 - 179)

Woodbury and Lympstone

Pomme D'or, 32 Summerfield, Woodbury, Exeter EX5 1JF

**Please note:**

Planning application details, including plans and representations received, can be viewed in full on the Council's [website](#).

This meeting is being audio recorded by EDDC for subsequent publication on the Council's website.

Under the Openness of Local Government Bodies Regulations 2014, members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

[Decision making and equalities](#)

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## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Development Management Committee held at Knowle, Sidmouth on 1 November 2016**

#### **Attendance list at end of document**

The meeting started at 10am and ended at 4.08pm (the Committee adjourned for lunch at 12.50pm and reconvened at 2pm).

#### **\*23 Minutes**

The minutes of the Development Management Committee meeting held on 6 September 2016 were confirmed and signed as a true record.

#### **\*24 Declarations of interest**

Cllr Steve Gazzard; 16/1022/MOUT and 16/1978/MFUL; Personal Interest; Exmouth Town Councillor

Cllr Brian Bailey; 16/1022/MOUT and 16/1978/MFUL; Personal Interest; Exmouth Town Councillor

Cllr Mark Williamson; 16/1022/MOUT and 16/1978/MFUL; Personal Interest; Exmouth Town Councillor

Cllr David Barratt; 16/0867/MFUL; Personal Interest; Sidmouth Town Councillor

Cllr Alan Dent; 16/0839/FUL; Personal Interest; Budleigh Salterton Town Councillor and applicant known to the Councillor

All Committee Members present declared a personal interest in application 16/1219/MFUL as East Devon District Council was the applicant.

Cllr Colin Brown advised that he was biased in respect of application 16/0867/MFUL and would therefore not speak or vote on the application.

#### **\*25 Appeal statistics**

The Committee received and noted the report presented by the Service Lead – Strategic Planning and Development Management setting out appeals recently lodged and outlining the nine appeal decisions notified – seven had been dismissed and two had been allowed.

The Development Manager drew Members' attention to the two appeals allowed at 1 – 5 and 7 – 9 Hogsbrook Units in Woodbury Salterton. The Inspector had overruled the sustainability reasons for refusal, concluding that the proposal could be considered a small-scale economic development that was likely to support local businesses and the local economy generally, including the provision of jobs. The current level of occupancy indicated that there was a demand for the units and there was no substantive evidence to suggest that this had, or would, materially lessen the demand for space elsewhere in the District, including those allocated in the Local Plan.

Members noted that the the Planning Inspectorate was still dealing with a backlog of appeals and therefore there were delays with the determination of appeals.

**\*26 Applications for Planning Permission and matters for determination**

**RESOLVED:**

that the applications before the Committee be determined as set out in Schedule 6 – 2016/2017.

**Attendance list**

**Present:**

Committee Members

Councillors:

David Key (Chairman)

Mike Howe (Vice Chairman )

Brian Bailey

David Barratt

Susie Bond

Colin Brown

Peter Burrows (did not participate or vote on application 16/1022/MOUT as did not attend site visit)

Paul Carter (left the meeting after consideration of application 16/1022/MOUT)

Alan Dent

Steve Gazzard

Simon Grundy

Ben Ingham

Helen Parr

Mark Williamson

Officers

Richard Cohen, Deputy Chief Executive (PM only)

Ed Freeman, Service Lead – Strategic Planning and Development Management (AM only)

John Golding, Strategic Lead – Housing and Environment

Steve Pratten, Relocation Manager (PM only)

Chris Rose, Development Manager

Shirley Shaw, Planning Barrister

Julia Waddington, Project and Facilities Manager

Hannah Whitfield, Democratic Services Officer

Also present for all or part of the meeting

Councillors:

Megan Armstrong

Jenny Brown

Jill Elson

Steve Hall

Geoff Jung

Bruce de Saram

Andrew Moulding

Bill Nash

Pauline Stott

Phil Twiss

**Apologies:**  
Committee Members  
Councillors:  
Matt Coppell  
Chris Pepper

Chairman ..... Date.....

**EAST DEVON DISTRICT COUNCIL**  
**Development Management Committee**  
**Tuesday 1 November 2016; Schedule number 6 – 2016/2017**

**Applications determined by the Committee**

Committee reports, including recommendations, can be viewed at:

<http://eastdevon.gov.uk/media/1897181/011116-combined-dmc-agenda-compressed.pdf>

AM session

(Councillor Peter Burrows did not speak or vote on the application as did not attend the site visit)

Exmouth Littleham  
(EXMOUTH)

16/1022/MOUT

Applicant: Littleham 2012 & Taylor Wimpey

Location: Land Adjacent To Buckingham Close (Plumb Park)

Proposal: Hybrid application for full planning permission for 264 houses and outline planning permission for 86 houses (all matters reserved)

**RESOLVED:** APPROVED subject to a Section 106 Agreement and conditions as per recommendation, subject to:

- An additional condition removing all Permitted Development Rights for plots 210 and 211 in order to protect the amenity of adjoining residents;
- A landscaping condition ensuring provision;
- Inclusion of policies to the reason to condition 5;
- Reference to appropriate conditions being included in condition 19.

(Councillor Paul Carter left the meeting)

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Exmouth Halsdon  
(EXMOUTH)

16/1978/MFUL

Applicant: DCH Group

Location: Exebank And Danby House, Mudbank Lane

Proposal: Demolition of existing buildings and erection of 36 dwellings (of which 50% are to be affordable and 50% open market).

**RESOLVED:** APPROVED subject to Section 106 Agreement and conditions as per recommendation, subject to condition 8 being amended to read:

'Notwithstanding the submitted landscaping details, additional plans and details shall be submitted which show additional

landscaping including the planting of trees and hedges along with details of their future management. The plans shall include the replacement of the existing London Plane tree at the front of the site with a comparable specimen. The scheme shall also include details of how the landscaping and trees will be managed. No development other than demolition shall commence until the new planting and management scheme has been submitted to and approved in writing by the local planning authority and the development shall be carried out in full accordance with the approved details.

(Reason - The details are required prior to commencement of development due to the importance of ensuring that the trees on site will be adequately replaced and can be successfully integrated into the development and in the interests of preserving and enhancing the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D3 (Landscape Requirements) of the East Devon Local Plan 2013-2031).'

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PM session

(Councillor Colin Brown did not speak or vote on the item due to having declared that he was biased)

Sidmouth Sidford  
(SIDMOUTH)

16/0867/MFUL

Applicant: Churchill Retirement Living

Location: Green Close, Drakes Avenue, Sidford

Proposal: Demolition of former residential care home and construction of 36 sheltered apartments including communal facilities, access, car parking and landscaping.

**RESOLVED:** APPROVED subject to a Section 106 Agreement and conditions as per recommendation.

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Honiton St Michaels  
(HONITON)

16/1292/MFUL

Applicant: Mr Stephen Pratten (East Devon District Council)

Location: Land Off Gloucester Crescent, Heathpark Industrial Estate

Proposal: Construction of new office block and associated car parking, for new East Devon District Council headquarters

**RESOLVED:** APPROVED with conditions as per recommendation

Budleigh Salterton  
(BUDLEIGH  
SALTERTON)

16/0839/FUL

Applicant: Mr Alan Pratt

Location: Lily Farm Vineyard, Dalditch Lane

Proposal: Construction of manager's accommodation and extension

**RESOLVED:** REFUSED as per officer recommendation

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Ottery St Mary Rural  
(OTTERY ST MARY)

16/1377/FUL

Applicant: Sandgate Developments Ltd

Location: Stonehill Quarry, Lancercombe, Sidmouth

Proposal: Change of use for the siting of 6no. glamping accommodation pods, a reception pod and picnic shelter including associated works and uses.

**RESOLVED:** APPROVED (contrary to officer recommendation) with delegated authority given to the Development Manager, in consultation with the Ward Members, to impose appropriate conditions (to include the control of lighting to ensure there was no detrimental impact from the site).

Members considered that:

- the site was well-located in relation to Tipton St John;
  - would have an acceptable visual impact;
  - would bring economic benefits to the area in accordance with Strategy 33 and Policy E19.
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Raleigh  
(WOODBURY)

16/1786/FUL

Applicant: FWS Carter And Sons

Location: 11- 23 Hogsbrook Units, Woodbury Salterton

Proposal: Retention of conversion of buildings to 13 no. industrial units (Use Class B1 (c) light Industrial, B2 General Industry and B8 Storage and Distribution)

**RESOLVED:** APPROVED with conditions as per recommendation

**East Devon District Council  
List of Planning Appeals Lodged**

**Ref:** 16/1194/FUL                      **Date Received** 20.10.2016  
**Appellant:** Mr & Mrs Joyce  
**Appeal Site:** St John Cotlands Sidmouth EX10 8SP  
**Proposal:** Construction of hip to gable loft conversion and enlargement of existing front dormer.  
**Planning Inspectorate Ref:** APP/U1105/D/16/3161449

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**Ref:** 16/1691/FUL                      **Date Received** 20.10.2016  
**Appellant:** Mr & Mrs S Grief  
**Appeal Site:** Pinehurst Annexe 189 Beer Road Seaton EX12 2QB  
**Proposal:** Extension to existing home office and change of use to class B1 office  
**Planning Inspectorate Ref:** APP/U1105/W/16/3161357

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**Ref:** 16/1461/FUL                      **Date Received** 27.10.2016  
**Appellant:** Mr & Mrs Richard Hazell  
**Appeal Site:** Tale Head Cottage Payhembury Honiton EX14 3HL  
**Proposal:** Change of use of agricultural land to garden to include removal of field hedgerow and construction of new boundary hedgerow  
**Planning Inspectorate Ref:** APP/U1105/W/16/3161989

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**Ref:** 15/2919/FUL                      **Date Received** 01.11.2016  
**Appellant:** Dr Paul Barber  
**Appeal Site:** Gardners Barn Land North West Of Lucerhayes Farm Honiton Bottom Higher Brand Lane Honiton  
**Proposal:** Change of use and alteration of agricultural building to form dwelling  
**Planning Inspectorate Ref:** APP/U1105/W/16/3162203

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**Ref:** 16/2291/FUL **Date Received** 15.11.2016  
**Appellant:** Mrs Eileen Bryce  
**Appeal Site:** 25 Essington Close Exmouth EX8 4QY  
**Proposal:** Construction of side dormer, including rooflights, and extension to roof to facilitate loft conversion  
**Planning Inspectorate Ref:** APP/U1105/D/16/3163198

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**Ref:** 16/F0425 **Date Received** 15.11.2016  
**Appellant:** Jodi Canti  
**Appeal Site:** Land south of Southleigh Road, Colyton EX24 6RS  
**Proposal:** Appeal against the serving of an enforcement notice in respect of the unauthorised siting of a wooden building on the land for residential purposes.  
**Planning Inspectorate Ref:**

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**Ref:** 16/0074/FUL **Date Received** 16.11.2016  
**Appellant:** Mr John Brett  
**Appeal Site:** 21 Stoneborough Lane Budleigh Salterton EX9 6JA  
**Proposal:** Construction of detached dwelling.  
**Planning Inspectorate Ref:** APP/U1105/W/16/3163298

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**Ref:** 15/F0675 **Date Received** 16.11.2016  
**Appellant:** Mr G Nightingale  
**Appeal Site:** Spoken, 43 The Strand, Exmouth EX8 1AL  
**Proposal:** Appeal against the serving of an enforcement notice in respect of unauthorised works to a listed building.  
**Planning Inspectorate Ref:** APP/U1105/W/16/3163298

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**Ref:** 16/1621/FUL **Date Received** 18.11.2016  
**Appellant:** Mr & Mrs Precious  
**Appeal Site:** Axehayes Farm Clyst St Mary  
**Proposal:** Construction of 7 no. business units (use class B1 (a) with associated access road and parking  
**Planning Inspectorate Ref:** APP/U1105/W/16/3163494

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**EAST DEVON DISTRICT COUNCIL  
LIST OF PLANNING APPEALS DECIDED**

**Ref:** 15/2148/OUT **Appeal Ref:** 16/00035/REF

**Appellant:** Mr S Richards  
**Appeal Site:** Aller House Knowle Village Knowle Budleigh Salterton EX9 6AP

**Proposal:** Construction of a single dwelling to rear of Aller House (Outline application with all matters reserved)

**Decision:** **Appeal Dismissed** **Date:** 20.10.2016

**Procedure:** Written representations

**Remarks:** Delegated refusal, amenity reasons upheld (EDLP Strategies 6 & 46 and Policy D1).

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3150643

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**Ref:** 15/1777/OUT **Appeal Ref:** 16/00042/REF

**Appellant:** DBD Developments  
**Appeal Site:** Peace Memorial Playing Fields Coly Road Colyton

**Proposal:** Outline application for the erection of 5 no. detached dwellings (all matters reserved)

**Decision:** **Appeal Dismissed** **Date:** 21.10.2016

**Procedure:** Written representations

**Remarks:** Delegated refusal, countryside protection reason upheld (EDLP Strategy 7). Application for a full award of costs by the Council allowed.

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3153630

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**Ref:** 15/2020/OUT **Appeal Ref:** 16/00022/REF

**Appellant:** Mr Anthony Carthy  
**Appeal Site:** Land North Of Cat Aclew Station Road Colyton

**Proposal:** Construction of 2 no. (equity share) houses (outline application with all matters reserved)

**Decision:** **Appeal Dismissed** **Date:** 21.10.2016

**Procedure:** Written representations

**Remarks:** Delegated refusal, flooding reason upheld (EDLP Policy EN21). Application for a full award of costs by the Council Refused.

**BVPI 204:** **Yes**  
**Planning Inspectorate Ref:** APP/U1105/W/16/3147609

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**Ref:** 15/2311/PDQ                      **Appeal Ref:** 16/00026/REF  
**Appellant:** F W S Carter  
**Appeal Site:** Milking Parlour Hogsbrook Farm Woodbury Salterton  
Exeter EX5 1PY  
**Proposal:** Prior approval of agricultural barn into dwelling (Class Q)  
**Decision:** **Appeal Allowed**                      **Date:** 21.11.2016  
**(with conditions)**  
**Procedure:** Written representations  
**Remarks:** Delegated refusal.  
The Council refused to grant prior approval on the basis that the domestic occupation of the building would have an undesirable relationship with the existing agricultural activity and livestock building, which operate on the site. As such there is scope for smell and noise from animals and the operational needs of transporting waste and feed to and from the site which would adversely affect residential amenity.  
  
The Inspector concluded that the main bulk of farming activity occurs further away to the north of the site and in this respect, the main sources of potential smell, noise and disturbance are located a sufficient distance away to mitigate any harmful effect on future occupants of the building.  
**BVPI 204:** **No**  
**Planning** APP/U1105/W/16/3148615  
**Inspectorate Ref:**

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**Ward** Sidmouth Town

**Reference** 16/0872/MFUL

**Applicant** Pegasus Life

**Location** Council Offices Knowle Sidmouth  
EX10 8HL

**Proposal** The construction of an assisted living community for older people comprising extra care units, staff accommodation and communal facilities, including a kitchen, restaurant/bar/cafe, a well-being suite comprising gym, treatment rooms and pool, a communal lounge and storage facilities; car parking for residents, visitors and staff of the assisted living community; comprehensive landscaping comprising communal and private spaces; and associated groundworks.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 6<sup>th</sup> December 2016</b>
<b>Sidmouth Town (SIDMOUTH)</b>	<b>16/0872/MFUL</b>	<b>Target Date: 02.08.2016</b>
<b>Applicant:</b>	<b>Pegasus Life</b>	
<b>Location:</b>	<b>Council Offices Knowle</b>	
<b>Proposal:</b>	<b>The construction of an assisted living community for older people comprising extra care units, staff accommodation and communal facilities, including a kitchen, restaurant/bar/cafe, a well-being suite comprising gym, treatment rooms and pool, a communal lounge and storage facilities; car parking for residents, visitors and staff of the assisted living community; comprehensive landscaping comprising communal and private spaces; and associated groundwork's.</b>	

**RECOMMENDATION: Approve with Conditions - subject to a S106 agreement**

#### **EXECUTIVE SUMMARY**

**The application seeks permission for the redevelopment of the existing Council Office buildings and the construction on both the site of the existing buildings and the accompanying middle and upper car parks of 113 apartments with associated wellness suite, restaurant and accompanying facilities.**

**The main issues in considering the application relate to the principle of development and an associated assessment of use. In addition issues including that of design, landscape and impact on the character and appearance of the area as well as heritage, landscape, neighbour amenity, access and parking also need to be considered.**

**Importantly the site is allocated within the adopted Local Plan for the delivery of 50 houses while separate policies indicate that extra care can be appropriate on sites allocated for housing. In terms of use and recognising that on site personal care would be given to future residents within a framework of supported independent living, it is recognised that the use as proposed would represent a C2 use. This assessment is important as it establishes that while the numbers of apartments proposed exceed the allocation and must therefore be considered as a departure from the Local Plan, the use itself is policy compliant. It also results in a conclusion that no affordable housing or CIL charge would be payable.**

Design and landscape impact have been an area of significant concern through the consideration of the application – not least because of the increase in the scale, height and mass of the buildings when compared with the character and domestic nature of the surrounding area. However an assessment by the Devon Design Review Panel found the scheme to be a very good example of modern architecture that was considered appropriate for its context. It is certainly recognised that the attractive use of materials and design devices break up the elevations of the respective buildings resulting in this issue being considered balanced.

Of greater concern however is the forward projection of the building across the upper terraces of the formal gardens to the south of the existing office buildings. Although this has been amended during the consideration of the proposal, the projection still reduces the spaciousness around the Grade II listed summerhouse the setting of which has remained intact for most of its existence. In so doing the proposal results in harm to its setting (considered as “less than substantial”). The legislation relating to listed buildings requires planning authorities when considering applications to have special regard to the desirability of preserving the setting of listed buildings. Accordingly this impact although limited needs to be given considerable importance and weight due to the importance of protecting heritage assets. Where less than substantial harm is identified to a heritage asset then alternatives must be considered and where the harm cannot be avoided the public benefits from the development must be considered to see whether these outweigh the identified harm. Alternative options for the design and layout of the part of the development that impacts on the setting of the summerhouse have been considered and found to be harmful to the scheme and unviable. The development can therefore only be approved if it is concluded that the proposal carries public benefits that outweigh the harm to the setting of the listed building.

Impacts on amenity have been raised as serious concerns by a range of the immediate neighbours and it is recognised that as a result of the revised plan form of the building and the increased height there would be a perception of dominance and some overlooking. While not particularly neighbourly it is not considered that such harm arises which cannot be suitably addressed by appropriate use of conditions. In addition the access and parking is also considered as a reasonable approach maintaining the entrance onto Station Road as the sole access to the site other than for emergency and refuse collection purposes.

Issues associated with trees, ecology (the site supports a regionally significant bat roost), lighting and drainage have also been raised and considered although none have such an impact that they result in such harm that the application should be refused on the basis of these concerns.

It is therefore a case of applying the statutory test in relation to listed buildings by giving considerable importance and weight to the harm caused to the setting of the listing building when balancing this harm against the public benefits of the development. Although the scheme is a departure from the Local Plan

providing apartments with extra care in excess of the allocation or requirements of the plan it therefore makes a meaningful contribution to housing delivery on a largely brownfield site. Together with the other public benefits identified in the report it is considered that the public benefits outweigh the harm to the listed building, notwithstanding the considerable importance and weight that this harm has been given.

As such the application is recommended for approval subject to a legal agreement and conditions.

## **CONSULTATIONS**

### **Local Consultations**

#### **Town Council**

Members were unable to support the application for the following reasons:

- The development size is contrary to the newly adopted East Devon Local Plan which allows for up to 50 units on the site.
- The development would be intrusive and out of keeping with the character of the area by reason of height, inappropriate design and materials, overwhelming bulk and massing
- The development is considered to be an overdevelopment of the site resulting in an unnecessarily high and overbearing structure
- The development would adversely affect the amenity of the neighbouring properties by reason of loss of light and overlooking of properties from development blocks A and F

Notes:

- Members were concerned that the development had been submitted as Class C2 when it was to all intents and purposes C3. They would wish to see a significant contribution towards affordable housing within Sidmouth.
- Members were not satisfied that adequate or appropriate plans had been put into place to cater for the amount of waste and recycling which would be generated by 113 units.

#### **Sidmouth Town - Cllr M Booth**

I object to this application for the following reasons:

##### **1. Scale and Massing**

The application is for extreme and inappropriate overdevelopment. By applying for a development of 12,850 square metres on the existing footprint of the Knowle offices

and car parks there is no option but to build the development to an excessive height and mass which leads to:

### 1.1. Overlooking

The overlooking of neighbouring properties will be excessive and will have a negative impact on their privacy and amenity particularly to Upper and Lower Knowle Drive from Buildings A, E and F. The proposed plans will double the height of the current council office buildings with just one concession being offered on Building A at the point, approximately 20 metres, closest to Hillcrest where it is set to rise by 3.5m above the current office building. Beyond that, Building A will rise by 7m. Combined it will lead to extreme overlooking onto Hillcrest from Building A as can be seen from the Townscape and Visual Impact Assessment (pp9, 21 and 22). Buildings E and F are also planned to be double the height of the current office buildings. Buildings A, E and F will overlook other neighbouring properties on Knowle Drive including Old Walls. Hillcrest and properties at Upper Knowle Drive will be overlooked by the Dell at the Gateway building. The Plateau and Dell will also have a considerable impact on the current position of neighbouring properties. For example, Hillcrest currently enjoys south and east facing views from its garden with sunlight coming into the garden and house. These views and the sunlight will be compromised by the developments of the Gateway building in the Dell to the east, and Building A in the Plateau that will block the sunlight to Hillcrest from the south.

7.12 Daylight and Overlooking p82 of the Planning, Design and Access Statement is deceptive and I believe has not taken into account daylight from neighbouring properties all year round. The impact of this is absolutely impossible to appreciate without visiting these properties, and I do not believe that it will be possible to comment on it without doing so. The buildings on the north side of the Dell also will overlook residential properties on Broadway.

The pitched roofs increase the height of the individual buildings and with it the loss of amenity for neighbours.

Buildings A, E and F will be outside of the current footprint of the council offices and as such will be closer to residential properties on Knowle Drive. In the case of Hillcrest, Building A will encroach on Hillcrest by some 20 metres.

The buildings will be occupied 24 hours a day and 7 days per week, unlike the council offices which are currently only occupied during office hours 5 days per week.

### 1.2. Visual Impact

Pegasus Life go to great lengths in their application to present the topography of the site as allowing for the excessive massing and scale of the development by enclosing the building within the site boundary and change in ground level. However, the extent to which they intend to develop is not fully demonstrated, neither is the true extent of the resultant visual impact both locally and from across the Sid Valley.

### 1.2 (a) View from the Immediate Area

Upper Knowle Drive currently enjoys a layout whereby all houses have been designed to drop away from the road and disappear behind hedges, fencing, and gates. The Pegasus Life plans maintain that, 'Building A is three stories high yet perceived as two stories from Knowle Drive', and 'Building F is three and four stories high, yet perceived as two and three stories high from Knowle Drive' (p61 Planning Design and Access Statement). This is deceptive (p57 Planning Design and Access Statement) and when the designs are placed against Knowle Drive is clearly inaccurate. Buildings A and F will not drop away any more than the current EDDC office buildings yet are planned to be 3.5m to 7m higher - Building A, and 7m higher - Building F. This is demonstrated in the Townscape and Visual Impact Assessment p9, p21 and p22. In addition, p9 01.7 and 01.8, p21 and p22 show clearly the extent to which Building A will impact greatly on the privacy and amenity of Hillcrest.

Buildings E and D will not only be considerably higher than the current old hotel, they will also be located some distance across the terrace lawns. The result will be the excessive overbearing of both buildings over the lawns and properties along Knowle Drive.

The view from Station Road across Knowle Park is vital as a first impression for the majority of people coming into Sidmouth by car or public transport. The Pegasus Life application will create an unattractive and overbearing development that will be completely inappropriate particularly in the winter when there are no leaves on the trees.

### 1.2 (b) View from the Valley

The Townscape and Visual Impact Assessment shows local views and views from the valley, however the selected viewpoints create impeded lines of vision or are from points that are to a large degree irrelevant and do not clearly represent the extent of the impact of the development on views from across the valley. For example, a western view is taken from the Golf Club but it struggles to show anything beyond the boundary of a field nor within what is widely renowned to be one of the most stunning views on the South West coastline including from the AONB and World Heritage Site. An alternative montage has recently been presented by a Sidmouth resident that shows the extent to which the development, viewed from a better viewpoint in the west, will rise from its surroundings and overpower the landscape. The Townscape and Visual Impact Assessment does not appear to qualify each viewpoint against its own methodology or the recommendation of the NPPF.

### 1.3. Noise and Pollution

The size of the site will create excessive noise that will impact on the amenity of neighbours. The site will be busy and occupied 24 hours a day 7 days a week unlike the council offices which are currently only operational during office hours 5 days a week. Traffic on site will be greater than existing traffic for the council and will again be active 24/7, and the light pollution will be considerably different to existing night time lighting for the council offices, especially assessing the nature of the layout of

the site in the plan and considering that this is a development of assisted homes for the elderly where lighting and safety will be paramount.

The noise and disturbance generally from the waste and recycling depots for the units, the wellbeing centre and the restaurant as well as the on and off-site traffic could well become excessive.

#### 1.4. Traffic and Transport

113 apartments of just one bedroom each could potentially create 230 cars being owned within the development. This is very likely given the requirements of most retired people up to a certain age, ability, and income who can tend to own one car each. The Planning, Design and Access Statement proposes a total of; 34 x one bedroom, 46 x two bedroom, and 36 x two bedroom plus apartments. Allowing a potential one to two cars per one bed property, and two or more cars per two bed, then it is quite possible that number could increase considerably meaning well over 200 cars belonging to residents could be present at any one time in or around the site. Add to that vehicles owned by visitors and care workers and there is a potential for an excessive amount of traffic on the site. The sole site entrance at Station Road could well become a very real hazard. The junction at Peaslands Road, Station Road and Broadway is already quite hazardous with cars coming off the Station Road bend at some speed and a less confident driver could get into trouble exiting, or stopping to turn into, the Knowle.

There is a genuine potential for traffic chaos around the site.

The site is not served well by public transport either at the Broadway end of Station Road or at the pinch point at the bottom of Knowle Drive. In addition, the pinch point creates a hazard in particular for mobility scooters.

Neither does this meet the sustainability criteria either set by the NPPF and recognised by Pegasus Life - Transport Assessment p7 2.4. - or by the East Devon Local Plan Strategy 5B.

#### 1.5. Parking

As per the above, the proposed 127 parking spaces on the development is far too few. The EDLP recommendation Policy TC9 states 1 car parking space to be allocated per one bedroom house and 2 per two bedroom. That means that 113 units could potentially require well over 190 spaces. Just by considering one bedroom apartments, if each member of a resident couple owns a car then as above that is 230 cars alone plus visitors and care workers. That will automatically lead to considerable overspill for parking into neighbouring roads. TC9 also allows for one bicycle space per home and the Pegasus Life TA mentions mobility scooters also which will need to be parked. In addition, Pegasus Life will have no control over how many cars each resident owns or wishes to bring on site.

2.15 of the TA paints a picture of poor planning for the development which is in no way mitigated in the rest of the TA.

## 1.6. Drainage, Waste and Sewers

Sidmouth already has a considerable problem with overloading of the drains, soakaways and sewers which worsens with run off towards the town centre. The excessive size of the development stands to make that problem considerably worse.

In addition, the scale and massing of the proposed development more than doubles the 50 units allocated in the East Devon Local Plan Strategy 26 a).

The scale and massing of the development application from Pegasus Life is far in excess of the 2012 application to develop on this site that was rejected on 8th March 2013. Therefore, this application cannot be assessed without reference to the rejected application of 2012/13.

## 2. General Observations

### 2.1. Architecture and Design and Local Relevance

The architects have created a design that in no way contributes to local distinctiveness. The design concept is more appropriate for a modern harbour type development and the use of a vast range of materials will lead to an unattractive design that is not in keeping with Sidmouth. The combination of pitched and flat roofs is ill thought through and will resemble a student's union or worse.

We have already seen one American style 'gated' retirement development built in Sidmouth at Mill gardens, and we do not want to see another and much larger one built on what has always been open community land.

The design will be unwelcoming to local residents, unattractive generally, and off putting to tourists and visitors.

The proposed buildings will be oversized, overbearing and unattractive.

### 2.2. Class 2 and 3 Categorisation and Community Infrastructure Levy (CIL)

By applying for Class 2, not only will Pegasus Life not provide an offset for much needed Affordable Homes in Sidmouth but they will not contribute from the profits of the development into the community via the CIL.

The C2 categorisation must be questioned and scrutinised fully. Pegasus Life maintain that they are building a development of 'assisted care homes' yet their application - Planning, Design and Access Statement p44 4.0 Design Brief - makes just one reference to how they intend to deliver this - 4.1. Assisted Living Community Brief - which contains the tenuous reference to a HAPPI Report. On questioning during the consultation process, they have conceded that in order to qualify for C2 status they needed to install a restaurant, pool, and wellbeing centre and ensure each resident undertakes a short annual medical by their own staff. This raises a number of issues mainly; the level of the medical assessment and how it might qualify what will be mainly healthy retirees as in need of assisted care; the exact nature of the lease contract; how they intend to present each unit as being adapted for care; and the final nature of the wellbeing centre and its access by the community (terms are to still to be decided on). In fact, it is far more likely that this will be a

standard residential development similar to their existing developments, for example in Bude, that should be categorised as C3.

Pegasus Life should not be provided with a situation where they can build a profit making development on the Knowle without paying back into the local community. This contravenes EDLP Strategy 50.

### 2.3. Needs Assessment

The needs assessment presented by Pegasus for this development tells us nothing at all and is purely subjective. It would be as easy to present a series of statistics that show the extent of the need for affordable housing in Sidmouth and East Devon, and from that having completed a development of 113 affordable homes there would be as quick a demand for more affordable homes in the area as they maintain there is a demand for retirement homes. In fact, Sidmouth now has both a considerable number of new developments aimed at the retired, including Mill Gardens and Sanditon, and economically and as a community it can be strongly argued that the town cannot afford to take on any further such developments. In addition, it contravenes a number of Policies and Strategies in the approved Local Plan including Strategy 4. c).

### 2.4. Historic Buildings

The old Knowle Hotel is a building of local Historic Interest as is the listed Folly that will be adversely impacted on by the proximity of the development.

### 2.5. Second and Holiday Homes

Pegasus cannot give a guarantee that the leases will not be bought to be used as second homes.

## 3. Conflict with the East Devon Local Plan 2013 to 2031

The application conflicts with a number of policies and strategies set out in the approved East Devon Local Plan 2013 to 2031:

### Affordable Homes

Affordable Homes are identified in the Vision of the EDLP and throughout as a top priority of East Devon District Council.

'Affordable homes are a top priority for this Council' - EDLP p17 3.3 Vision for East Devon to 2031

### Strategy 34 - Affordable Housing

East Devon District Council's own assessment shows a need for affordable homes in Sidmouth in excess of 113 units. It can therefore be argued that this development contradicts the drive for affordable homes as a priority in the Local Plan. In addition, where the Pegasus Life development will provide no affordable homes on the site, the C2 categorisation will provide no offset for affordable homes in the town either.

## EDLP 3.14 - The East Devon Sustainable Community Plan and Sustainable Communities

The Brundtland Report states, "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own need". There are already an excess of retirement developments in Sidmouth and an identified lack of affordable homes. The former Headteacher of Sidmouth College on leaving said that the college was suffering both because of the numbers of young families having to move away from the town from being priced out, the lack of young families coming in through being priced out, and the lack of diverse opportunities for the younger generation still within the town. This development contradicts the advice of the Brundtland Report.

### EDLP Spatial Strategy

Strategy 1. 6.9 - Local employment provision will be made at East Devon towns with an expectation that larger scale housing allocations will be matched with new jobs (around 1 for each home built).

### Strategy 3. Sustainable Development

- c) Promoting social wellbeing
- d) Encouraging sustainable economic development
- e) Taking a long view of our actions

Replacing 365 fte jobs with 14.5 fte jobs does not contribute to a diverse local economy. Replacing 365 people working within Sidmouth from a broad age range with 113 plus residents within a single demographic does not contribute to a diverse long-term local economy either.

### Strategy 4 - Balanced Communities

- c) Getting more age balanced communities

### Strategy 5b - Sustainable Transport

As above. Potential 300 plus cars on site at any one time. Poor public transport service in the vicinity.

### Strategy 26 - Development at Sidmouth

- a) Land at Current Council Office Site - land for residential use is allocated for 50 homes, site ED02A.

### Strategy 29 - Promoting opportunities for young people

Not only is there no affordable housing within the site, nor likely to be any kind of offset, Pegasus Life only identify 14.5 fte jobs when operational.

In addition, the development will take the economic impact via the spend of those 365 jobs including sustainable outcomes such as diverse employment, talent retention and the passing on of skills, out of Sidmouth. All of which contradict the Local Plan.

Strategy 30 - Inward Investment, Communication Link and Local Benefits

16.13 Only 14.5 fte jobs. No local benefits.

Strategy 31 - Future Job and Employment Land Provision

1. One job for each new home built. 14.5 fte jobs with no offset encouraged.

Strategy 32 - Resisting Loss of Employment Sites and Buildings

Promoting the Commercial Prosperity and Vibrancy of our Town Centres

16.17 and 16.18 - The development will reduce 365 current fte jobs on the site to 14.5 fte jobs. This will have a considerable economic impact on the town and in particular small retailers that rely on the spend of a diverse range of people from a broad age range working within the town. A single demographic can only have a negative impact on the vitality and viability of local businesses and retailers.

Pegasus Life have tried to counteract the economic argument by saying that 60 is the new 40 and pitching the development somewhere vaguely between the newly retired and the elderly in need of full-time care. We can assume that the development is in fact pitched at wealthy retirees, in which case their application for C2 should not be considered.

Strategy 33 - Promotion of Tourism in East Devon

Strategy 34 - Affordable Housing

Strategy 36 - Accessible and Adaptable Homes

Care Needs Assessment not supported by Sidmouth Town Council Planning Committee nor any other consultees.

Current evidence shows a diminishing demand for care homes in Sidmouth.

Therefore, Pegasus Life are unable to argue that the majority of residents will not come from outside Sidmouth and/or East Devon, nor that the apartments will not be bought as second or holiday homes.

Strategy 46 - Landscape Conservation and Enhancement and AONB's

1. conserves and enhances the landscape character of the area
2. does not undermine landscape quality
3. is appropriate to the economic, social and well being of the area

Strategy 48 - Local Distinctiveness in the Build Environment

18.59, 18.60, 18.61

## Buildings of Historic Interest

Strategy 49 - The Historic Environment

Strategy 50 - Infrastructure Levy

No real argument has been delivered as yet for C2.

Five-Year Land Supply and Sub-Housing Areas  
Properly assessed against 20.3, 20.4 and 20.5?

EDLP Part Two

21 Design Standards

21.1

D1 - Design and Local Distinctiveness

1, 2, 3, 4, 5 (carbon emissions), 6 (tbc - mobility scooters), 7 (tbc)

D2 - Landscape Requirements

3 (tbc), 6 (tbc)

D3 - Trees

EN5 - Wildlife

Badger sets etc around the development site tbc

EN8 - Significance of Heritage Assets and their Setting

EN14 - Control of Pollution

EN18 - Maintenance of Water Quality and Quantity

EN19

H2 - Range and Mix of New Housing Development

E9 - Town Centre Vitality and Shopping Areas

"The viability of town centres relies on their ability to be competitive". Discuss.

E18 - Loss of Holiday Accommodation

Pegasus Life can give no guarantee that the leases on these properties will not be bought as second or holiday homes.

Traffic, Transport and Parking

TC2

TC3

TC4

TC7

TC9

In summary, there is little to commend this application. While Pegasus Life appeared on the surface to go to great lengths to consult with the community, neighbours, and the town in general, nothing in their final application really seems under close inspection to demonstrate that they intend to do anything other than make a profit from the Knowle, a site that has always been regarded as a core asset for the people of Sidmouth.

I would strongly request and recommend that this application is refused.

#### Sidmouth Town - Cllr J Dyson

I object to this application for the following reasons:

1. The height and massing are too great for the site, especially on the upper level
2. The mass of the upper blocks will have a significant impact on nearby conservation Areas, and on the adjacent housing and parkland, including a listed building near the boundary. There are significant overlooking issues for nearby houses in Knowle Drive in particular. The development adds little to the attractiveness of Sidmouth as a whole
3. The designation of the application looks more like C3 than C2. The applicant appears to be paying lip service to C2 standards. Most of their developments in other town are C3.
4. The number of dwellings is far in excess of that specified in the Local Plan. I would prefer that the upper blocks were limited to three floors only and the tall building in the lower block significantly reduced in height.
5. There has been no consideration of the impact on the local patterns of traffic: if the development were to take place as planned the extra pressures on the single entry/exit and adjacent cross roads would be significant. The spine road on the site would require widening to accommodate all the movements, including visitors and services. There is insufficient car parking capacity provided.

#### Sidmouth Town - Cllr C Gardner

Further comments

I have seen the new information submitted from Pegasus Life but am confused about how the comments that have been made on important aspects such as the overbearing height and mass of the proposed development have been addressed. These changes seem to concentrate on secondary issues which arise from this, such as the drainage problems which appear to be a direct result of the very large buildings being proposed.

Also, has any enquiry been made about the effects of making deeper foundations on the local drainage patterns for Upper Knowle Drive and adjacent areas with possible risk of localised subsidence?

## Original Comments

I object to this application on the following grounds:

- it seeks to more than double the number of dwellings earmarked for this site in the new East Devon Local Plan;
- it proposes buildings of a poor architectural design;
- it will negatively affect nearby residents, the public parkland and views from the surrounding area and AONB
- it will have a negative impact on employment and housing contrary to several Local Plan policies

The application fails to comply with many Strategies and Policies in the adopted East Devon Local Plan 2016-2031 (EDLP). These are described below. A list of strategies and policies that are relevant is attached.

### 1. Exceeds the allocation of units for the site in the EDLP

*Strategy 26 (Sidmouth)* stipulates 50 dwellings for the site. Pegasus Life have applied for 113 dwellings plus assisted living facilities. This number vastly exceeds the allocation and distorts the Sidmouth strategy of the Local Plan, which allocates only 100 new homes in the plan period. It should also be noted that *Strategy 36 (Accessible and Adaptable Homes and Care/Extra care Homes)* mentions 50 care/extra care home spaces for Sidmouth but it is not clear whether this proposal would meet that allocation or not. Either way the proposal for 113 is excessive.

### 2. Negative impact on employment and accommodation for working-age people

The allocation of this site for housing and not employment is contrary to *Strategy 4a and 4c (Balanced Communities)*. The loss of high-quality jobs on this site will not be compensated for by the small number of care-type jobs proposed by Pegasus Life. Likewise *Strategy 31 (Future job and employment land)* is not met as this proposal is for accommodation exclusively for over-60's and therefore does not provide any accommodation for working-age residents with live-work units. The proposal to change the use of the site from employment to residential is in direct opposition to *Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)*. *Strategies 3c and 3e (Sustainable Development)* and *Policy H2 (Range and Mix of New Housing Development)* are also not met by this proposal as it increases accommodation for over-60's with no provision for other age groups. This will be compounded if no s106/CIL contribution is obtained. (see below)

### 3. Lack of affordable housing contribution

*Strategy 34 (District Wide Affordable Housing Provison Targets)* states

that in Sidmouth 50% of new dwellings should be affordable. In this case Pegasus Life are asking for designation as Class 2, thus avoiding the requirement to provide any affordable housing. Given the need for affordable housing and the shortage of sites in the town it is essential that this site contributes.

A development of this scale and of such value must be required to contribute to the infrastructure of the town and the benefit of local residents.

#### 4. Demolition of and impact on historic buildings

The proposal to demolish the old hotel building on the site is contrary to *Strategies 48 (Local Distinctiveness in the Built Environment) and 49 (The Historic Environment) and Policy D1 (Design and Local Distinctiveness)*. The character of the old building and its site contribute to the distinctiveness of the town and its history.

The proposed location of building E so close to the Grade 2- listed Folly, will have an overbearing impact on this feature. This is contrary to *Policy EN8 (Significance of heritage Assets and their Setting)*.

Despite Pegasus Life's' early assurances to the contrary, they have planned buildings right up to the limit of the terrace. This is contrary to Sidmouth Town Council's stated view that this should not happen, and intrudes greatly into the Parkland.

#### 5. Overall mass of the proposed development

Contrary to *Policy D1 (Design and Local Distinctiveness) and Strategy 46 (Landscape conservation and enhancement & AONBs)*

The proposal maximises the number of apartments on the site without taking account of the visual impact this will have both on the immediate neighbourhood or the wider Sid Valley, including from the East Devon AONB.

Some neighbours will be severely affected by windows high in the new development looking into their gardens and even through Velux windows. This loss of privacy is contrary to Policy D1, 3e.

The footprint of the proposal maximises apartment numbers and minimizes parking and gardens. The footprint of the new blocks D and E extend well into the terraces beyond the footprint of the old hotel. This was raised as a concern many months ago due to the inclusion of this land in the EDLP site allocation at a late stage without clear approval or agreement from the Council. The height of the buildings is excessive: building A is 5.36m higher than the existing block, building C is 4 storey's and 4.5m higher than the existing and building F is 4 floors and 7m higher than the existing building. The actual heights from the ground floor are about 17m. This is contrary to *Policy D1, point 2*.

The views shown in the application by Pegasus Life have been carefully chosen and show visual intrusion to be present but not overpowering. I draw your attention to the images attached as an example of how visible they will be.

The impact on the town cannot be overstated. These buildings will be visible from the immediate area but also from properties around the town and from the AONB, the Coastal Preservation Area and Jurassic Coast World Heritage Site. The Knowle site is on higher ground and in the valley, meaning that these tall buildings will be

visible from Mutters Moor and Peak Hill to the west and the coast path to the east at Salcombe Hill. The current buildings are very difficult to spot.

A second problem with the height is the effect on privacy and amenity of neighbouring properties. Some homes on Knowle Drive are especially affected including Hillcrest and Old Walls. Even though some office windows are currently visible, these are not occupied at night or at weekends. The impact of a residential development is much greater. This contrary to *Policy D1, point 3e*.

#### 6. Overall design of the proposed development

The appearance of the buildings is contrary to *Strategy 48 and Policy D1: Design and Local Distinctiveness*.

The developers are proposing to apply a mixture of materials. There is a combination of wood, flint, timber cladding, cedar shingles, and clay tiles. The wood finishes are quite unlike anything else Sidmouth. The Dell buildings are out of keeping with the style of the town and do not contribute to local distinctiveness. The design is unimaginative and misses an opportunity to contribute something to the character of the town, not detract from it. A reduction in the scale of the development provides an opportunity to revisit the design and materials and propose something more in keeping with the town.

#### 7. Insufficient parking provision

There is an allocation of only 127 spaces for residents, staff and visitors. This allocation, for the 113 dwellings and the care facilities, is contrary to EDLP *Policy TC9 (Parking Provision in New Development)*. Applying this policy means there should be 196+ spaces.)

Consideration should also be given to the parking implications related to the number of care workers required on site. As an 'assisted living' community Pegasus Life are offering residents additional care. What is the maximum number of residents predicted to need this support and how many additional visitors' spaces will be needed to accommodate this?

#### 8. Impact of facilities on town centre businesses

The proposal includes leisure facilities that are also open to the public. Consideration should be given as to whether this is acceptable under policies to preserve town centre vitality (e.g. *Policy E9 – Town Centre Vitality and Shopping Areas*). This is a difficult time for all local businesses and new competition as part of this kind of development may be damaging.

### **Technical Consultations**

#### County Highway Authority

There was a similar (in many respects) previous planning application ED/12/1847 to which the applicant refers in the Transport Assessment, including reference to the

response given to that application by the County Highway Authority. The current Transport Assessment has been prepared in accordance with a scoping agreed with the County Highway Authority. The content of the Transport Assessment is broadly accepted and agreed by the highway authority and it is noted that the applicant has taken on board recommendations made in respect of the earlier application.

The site has been revisited recently by an officer of the County Highway authority and all representations received up until the date of making this response have been read and the contents noted.

The proposed development will result in a reduction in traffic generation potential when compared to the existing site use as a Council offices, but this would also be the case if the site were to be used for general offices, too. There are accesses to the site from Knowle Drive to both the Council Depot and the rear servicing / delivery area which are proposed to be closed to vehicles as part of these current proposals. This being the case, the highway authority is satisfied that there will be a noticeable reduction in traffic using Knowle Drive.

There have been few personal injury accidents on the surrounding highway network as reported in the Transport Assessment, with none recorded whatsoever in Knowle Drive / Broadway. The reduction in traffic generation potential from the site following the development will reduce the potential for injury accidents in the area generally.

One of the measures identified in the Framework Residential Travel Plan is the promotion of Public Transport. The northbound bus-stop near the site access onto Station Road is not ideal and could usefully be improved to provide a safe pedestrian access and waiting point, although there is insufficient space to accommodate a bus shelter in this location. It is therefore noted that the applicant is proposing a landing for pedestrians next to the bus stop in the plans in the Transport Assessment. This is acceptable in principle, but it would be preferred if the footway tapered / flared back to the edge of the carriageway rather than stop abruptly. This detail can be rectified later when the appropriate Agreement is obtained from the highway authority. Appropriate conditions are recommended to be imposed on any planning permission granted.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION:-

1. The proposed access road, improvements to existing bus stop facilities in the vicinity of the site access to Station Road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with the application drawings before any occupation of the site served by that access.

REASON: To facilitate appropriate access to any part of the development as occupation progresses

2. The development hereby approved shall not be carried out otherwise than in accordance with the phasing programme detailed in the application documentation.

REASON: To ensure the proper development of the site.

3. No development shall start until the Method of Construction Statement, including details of

(a) parking for vehicles of site personnel, operatives and visitors

(b) loading and unloading of plant and materials

(c) storage of plant and materials

(d) programme of works (including measures for traffic management)

(e) provision of boundary hoarding behind any visibility zones as detailed in the application has been approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.

Reason: In the interest of highway safety

4. Prior to the occupation of any part of the development the existing accesses to Knowle Drive shall be closed to motorised vehicles (with the exception of mobility scooters or electrically assisted bicycles) in a manner to be agreed with the planning authority after consultation with the County Highway Authority.

Reason: In the interest of highway safety

5. Prior to the commencement of the development a Travel Plan shall be submitted for the written approval of the Local Planning Authority in accordance with the aims and objectives of PPG13 (March 2001) and the Government White Paper (July 1998) and in general accordance with the 'Framework Travel Plan' document in the Transport Statement.

And then the approved travel plan shall be implemented before first occupation and for each and every subsequent occupation of the development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

### EDDC Trees

Preliminary observations are as follows:

The proposed scheme predominately occupies the existing developed area and associated impermeable surfaces on the Knowle site; consequently the proposed scheme results in relatively few tree removals, given the scale of the proposed re-development. The most significant removals are:

Monterey pines (G48 and G49): Give the dominant tree has a tightly included main union at approximately 2/3 height, which reduces the retention span of the whole group, their removal can reasonably be justified subject to mitigation planting.

Sycamore (T80) and yew (T81), these are located to the rear of the main building and part of a larger group of trees, in the context of the proposed development and subject to mitigation planting removal can be justified.

Magnolia (T67) This is a significant arboricultural feature of the Knowle sit, thought to be a cultivar of the local variety 'Exmouth', however it is likely to be using the building

structure for support and shelter; therefore removal of the building will necessitate the removal of the tree. Ideally I would like to see new trees propagated from this tree so that they can be planted out as a legacy for future years.

Birch (T108) relatively modern planting, but with an attractive form and visible from Knowle Drive.

Re-location of the Ginkgo (T66). This is a difficult process and the more time allowed to prepare the tree the greater the likelihood of success. Any movement of the tree will need to be controlled by planning condition, subject to a detail method statement and is likely to affect the phasing of the construction of block E (so as to allow sufficient time to prepare the tree and for it to adapt).

The Root Protection Areas (RPA) have not been fully fenced off around the Monterey pine (T84) and the yew (T68), even though this is currently grassed. This will need to be addressed as part of the application process as this has implication for the relocation of T66.

The current levels around the sycamore T24 do not appear conducive to the proposed parking areas either side of the tree. This and a number of other areas, where RPA's are shown under hard standing, will require greater detailed (cross sectional drawings showing current and proposed levels) to assess impact

The Eucalyptus (T76) appear to be suffering from the early stages on basal decay possibly from *Armillaria* sp, in conjunction with the multi-stemmed form of the tree, it may be best to remove the tree and start again.

I have reservations over the quality of the views from the lower apartments of buildings C, D and E. The lower outward facing apartments appear look straight out onto to densely planted evergreen understory. Firstly this is unlikely to be desirable to the occupants, secondly it is likely to place the new landowner under considerable pressure to undertake proactive management of the understory plants. Ongoing maintenance is required to manage this, however this would need to be phased as it will increase the permeability of the screening, affecting views back into the site. Whilst most of the wooded area is outside of the red line, it does require positive and active management moving forward. It would be good if this could be secured through a voluntary management plan subject to a s106 agreement as part of the development proposal.

The eastern elevation appears to leave little space for future tree growth of the trees immediately to the east and would result in a cyclical need to prune the tree the structure of Building C.

### Natural England

Update 12.08.16

I confirm on the basis of the additional information supplied that in the event of approval, Natural England considers it acceptable for the production of a Lighting Strategy (based on the recommendations within the lighting assessment) to be required as a condition of planning permission in order to ensure that the impact of lighting on the bats is appropriately addressed.

## Original Comments

Thank you for your consultation on the above dated 05 May 2016 which was received by Natural England on the same date. Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

### **European Protected Species protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended) Protected Species – Further information Required**

On the basis of the information available to us, our advice is that the proposed development is likely to affect bats on, or in the vicinity of the application site through disturbance to individuals and the damage or destruction of a breeding site or resting place.

Bat surveys included within the application have identified two buildings they have labelled A and B as supporting bat roosts including a well-established maternity roost of Lesser Horseshoe bats in Building B.

The ecological assessment indicates that the roost in building B has been used for at least 20 years and the bat survey results show that it is used as a Maternity roost for up to 177 Lesser Horseshoe bats and as a hibernation roost for up to 70 Lesser Horseshoe bats. The results also identify a small Lesser Horseshoe bat roost in the northern part of Building A and at least former small roosts of Lesser Horseshoe, Brown Long-eared and Common Pipistrelle bats in the lofts of the southern part of building A. The surveys acknowledge that the overall bat assemblage is of regional importance and consider their conservation status to be unfavourable and stable.

If permission is granted this application will result in the demolition of all buildings except building B. This will result in the loss of the roosts in building A and the demolition of building C will also alter the access to building B and change the environs of the light sampling area which is an important requirement for horseshoe bats. Despite the mitigation proposed Natural England remains concerned about the potential for disturbance during the demolition, construction and operational phases. The change of use from offices to residential use is also has the potential to result an increase in the amount of time artificial lighting is required in the evenings and an increase in light spill from internal sources as lighting is likely to be on for longer in a residential environment than the current use as offices. Given that the bat survey has identified that the bats conservation status is unfavourable because of currently raised artificial lighting, Natural England is concerned about any development that is likely to make the situation worse. The Bat Mitigation Strategy refers to a 'Lighting Strategy' but this does not appear to be included with the consultation documents. Natural England has requested this separately and advises that the 'Lighting Strategy' should be provided and considered before any permission is granted.

As bats are a European Protected Species protected under the Conservation of Habitats and Species Regulations 2010 (as amended), a licence is required in order to carry out any works that involve certain activities such as disturbing or capturing the animals, or damaging or destroying their resting or breeding places.

Please note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided through avoidance (e.g. by timing the works appropriately), it should be licensed. The Bat Mitigation Strategy accompanying the application concludes that, if permission is granted, a European Protected Species Licence will be required before this development can proceed.

We also note that although Building C did not support a bat roost when it was surveyed, because it is scheduled for demolition if this proposal is approved, a licence will be needed to demolish it as the work will cause a disturbance to the bats roosting in Building B.

Natural England's advice on this planning application relates only to whether the proposed development (including any proposed mitigation measures) is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status. It does not consider whether the proposal requires a licence, satisfies the three licensing tests or whether a licence is likely to be granted for this proposal. In particular, it should be noted that we are not in a position to advise whether there are alternative solutions that would deliver the stated need while having a lesser impact on the protected species.

Under regulation 9(3) of the Habitats Regulations, competent authorities (in this instance the local planning authority) must have regard to the requirements of the Habitats Directive when exercising any of their functions, including whether or not to grant planning permission. This includes having regard to whether the development proposal is likely to negatively affect any European Protected Species (EPS) and whether any necessary licence is likely to be granted by Natural England. This should be based on the advice we have provided in this response on likely impacts on favourable conservation status and our published guidance on the three licensing tests (ie no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status). More information on the requirements to meet the three tests is provided in Defra's draft guidance on the Habitats Directive (of particular interest are paragraphs 125-143) and Natural England's guidance on how we apply the three tests.

### **East Devon Pebblebed Heaths SAC and East Devon Heaths SPA**

The application site lies within 5km of the East Devon (Pebblebed) Heaths SAC and SPA. This is within the 10km zone within which impacts of residential development on the aforementioned site could reasonably be expected to arise in the absence of appropriate mitigation.

In the case of the European sites referred to above, your authority cannot grant permission for this proposal in the absence of a Habitat Regulations Assessment which concludes either i) no likely significant effect due to mitigation included by the applicant or, ii) no adverse effect on integrity following an Appropriate Assessment.

Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process.

It is normal practice that all planning applications for housing in East Devon District have Section 106 Legal Agreements (containing a Habitats Mitigation Contribution) covering impacts on European Sites within 10km of the proposed development. However it is acknowledged that the proposed is for an assisted living accommodation and the Ecological Assessment maintains that residents are unlikely to use the SPA for recreational purposes. However the potential impact on the East Devon Pebblebed Heaths SAC/SPA is dependent on the demographic restrictions applied to prospective residents. For example just being over a certain age threshold (60yrs old for example) does not in itself limit the potential for outdoor recreation. Therefore we advise that careful consideration is given to the proposed demographic of likely occupants and their ability to access the East Devon Pebblebed Heaths SAC/SPA for recreation when coming to a conclusion on this.

Your authority must be clear that if it cannot be demonstrated that the needs of potential occupants preclude them from accessing the East Devon Pebblebed Heaths SAC/SPA for recreation, sufficient financial contributions and/or specific measures to provide mitigation for the East Devon (Pebblebed) Heaths SAC and SPA are secured before granting permission. If the likelihood of recreational pressure cannot be ruled out, and the financial contributions/measures are sufficient and if the mitigation contribution is secured, Natural England would concur with the view that a Likely Significant Effect can be avoided.

### **East Devon Pebblebed Heaths SSSI**

Natural England advises that there will be no additional impacts on the features of interest of these SSSI sites resulting from the proposed development beyond those already identified with regard to the European wildlife sites above.

### **Landscape**

The proposed development is for a site within or close to a nationally designated landscape namely the East Devon AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 113 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character

Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

### **Other advice**

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

For any queries relating to the specific advice in this letter only please contact me on the number below. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

### Environment Agency

Thank you for your email. However we should not have been consulted on this application.

The site lies within Flood Zone 1. We advise that we have no comment to make on this application and recommend that you consult Devon County Council, the Lead Local Flood Authority, on the proposal.

As you will be aware, following revisions to the Development Management Procedure Order (DMPO), from 15 April 2015 the Environment Agency is no longer a Statutory Consultee for matters relating to surface water drainage; we do however remain a statutory consultee for developments within Critical Drainage Areas (CDAs). Further guidance on when to consult us can be viewed on our Flood Risk

Standing Advice via the following link: <https://www.gov.uk/flood-risk-assessment-local-planning-authorities>

### South West Water

I refer to the above application and would advise that South West Water has no objection.

For information a public sewer runs within the site as shown on the attached plan (scanned plan) - no buildings/structure or alterations to ground cover will be permitted within 3 metres of this.

### DCC Flood and Coastal Management Team

#### Recommendation:

Assuming that the documents referred to below are formally submitted to the Planning Case Officer and registered with the above planning application, our objection is withdrawn and we have no in-principle objections to the proposals at this stage.

#### Observations:

Following my previous consultation response (FRM/ED/0872/2016, dated 11th November 2016), the applicant has provided some additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 16th November 2016, for which I am grateful.

The applicant has provided a Drainage Strategy (Report Ref. J01488 Rev K, Rev. K, dated November 2016), sections 4.0 and 4.1 of which clarify that a 50% betterment to the existing peak off-site discharge rate will be provided for the entire site. Currently, the maximum off-site discharge rate is 147 l/s, but post-development, this rate will be 73.5 l/s.

I am also satisfied that long term storage does not need to be accounted for in the proposed surface water drainage management system because this development provides betterment to the site's impermeable area, reducing it by 269m<sup>2</sup> compared to the present day, as noted in sections 2.2.1 and 3.0.2 of the aforementioned document.

Furthermore, the applicant has provided Appendix 6 and Appendix 10 of the aforementioned document, which includes a variety of MicroDrainage model outputs (dated 14th November 2016). These demonstrate that both Networks 1 and 2 do not flood in the 1 in 100 year (+30% allowance for climate change) rainfall event, and that Network 1 does not flood in the 1 in 1000 year (+30% allowance for climate change) rainfall event, which is far in excess of the required standards.

The applicant has also provided Appendix 8 of the aforementioned document which demonstrates that infiltration is not a viable means of surface water drainage on this site, which is acceptable.

Additionally, an acceptable operation and maintenance schedule for the proposed surface water drainage management system has now been provided in Appendix 9 of the aforementioned document.

As mentioned in my previous consultation response, I note the public representations in relation to the risk of surface water flooding to the south-west of the site. However, given the level of betterment being provided by the proposed surface water drainage management system, the development of this site will significantly reduce the rates of surface water runoff.

### Devon Gardens Trust

Thank you for consulting The Gardens Trust on the above application which affects The Knowle, an historic designed landscape included by the Devon Gardens Trust on the Devon Gazetteer of Parks and Gardens of Local Historic Interest.

The Knowle was one of the most famous houses in Sidmouth in the nineteenth century but later rebuilding has left few of the early features. Part of the fine parkland grounds remain as a public park, although diminished to some extent by the council car parks which are an intrusion into the parkland; the offices of East Devon District Council are rather nondescript. The parkland of The Knowle forms part of the attractive approach to Sidmouth, providing an important contribution to the overall historic character and landscape of the town.

We have studied the application documents on your web site and have visited the site on many occasions. In our letter of 5 November 2012 regarding application 16/0872/MFUL, we stated that The Devon Gardens Trust would not have any objection to the principle of redevelopment on the footprint of the existing Council offices but that we consider it would not be acceptable, in terms of the historic designed landscape, to build on any of the existing parkland.

It would appear that the proposed development by Pegasus would not intrude into the parkland. The applicant states that EDDC are currently engaged in discussions to transfer ownership of 3.5ha of land (which is presumably the parkland) at the Knowle to Sidmouth Town Council. We would welcome this as it would ensure the long term future of the parkland. !

The Heritage and Archaeology Statement and the Design and Access Statement are very comprehensive documents. We note that the proposed development has been designed by an award winning architect and promises to be an interesting scheme, whilst not being to everyone's taste, it will certainly be a vast improvement on the existing Council offices.

We trust that these comments are helpful.

## Other Representations

83 Letters of objection have been received raising the following issues:

### Design and layout

- The amendments received have not significantly addressed the designs on scale mass and bulk previously registered
- Buildings are closer to neighbouring residential properties than indicated on the submitted plans
- Insufficient parking proposed for the size of scheme resulting in pressure on, or loss of the park and walk facility and congestion on local roads
- Buildings are substantially oversized with a height mass and dominance that would harm the character of the area
- Poor design and use of materials (particularly timber cladding) that is not locally distinctive
- Too visible from and causing harm to the wider landscape designated as an AONB, Conservation Area and Jurassic Coast along with key visitor routes into Sidmouth.
- Development projects substantially into the parkland environment to achieve an unwarranted density
- An unacceptable increase in the height of the buildings following the introduction of pitched rather than flat roofs
- Development would result in a larger and more dominating development than the refused scheme in 2012/3
- Insufficient evidence submitted to allow a meaningful assessment of impact on the public realm and particular viewpoints
- Development would result in the loss of public footpaths
- Understorey planting should be retained to provide relief from the bulk and massing of the development.

### Heritage

- The proposals do not enhance or better reveal the significance of the heritage assets
- The main office building should be considered as a non designated heritage asset
- There is insufficient evidence to allow for the loss of the main building in heritage terms
- The scheme would harm local historic character which would affect the tourism and enjoyment of visitors to the town
- The development fails to respect the local regency architecture
- The development would continue to dominate the Grade II Listed summerhouse (folly) despite limited changes now proposed
- Summerhouse only has limited presence currently due to the lack of maintenance and landscape management undertaken by the present owners
- There should not be the voluntary destruction of an historic Sidmouth building

## Policy/Use

- Development far exceeds policy requirement where the allocation is set at 50 dwellings
- To achieve sustainable development there should be a focus of re using existing buildings rather than redeveloping the site
- The scheme does not deliver any wider social economic or environmental benefits
- Loss of parkland is contrary to Policy RC1 of the adopted Local Plan
- The scheme does not make provision for the use of renewable technologies contrary to Strategy 17
- The proposed development does not appear to have been planned over the lifetime of the building with the aim of reducing carbon emissions
- A C3 use would be CIL liable and also be able to deliver affordable housing
- The development would result in an unnecessary garden grab
- The development provides for too few full time equivalent staff for it to be considered as a C2 use
- Cafe restaurant introduces a commercial element into an otherwise residential environment
- The development should be for young people to improve the local demographic situation
- If not fully occupied the development risks being opened up to non qualifying people and used as holiday accommodation

## Trees

- Development would threaten the longevity of retained trees
- Development would adversely affect trees worthy of retention with the net loss of tree quality contrary to policy
- The scheme does not deliver a harmonious relationship with trees as required by policy
- Development would significantly detract from the amenity value and enjoyment of the Arboretum

## Drainage and Flooding

- The scheme would result in an overloading of the local infrastructure and sewerage
- Development on the lawn and terraces together with raising of ground levels would exacerbate risk of flood risk
- Planting of a few small trees would not compensate or address the flood risk
- Developers appear to be refusing to provide adequate attenuation measures to mitigate risk associated with heavy rain

## Amenity

- The refuse store should be located along the main access drive to ensure adequate room for collection, minimise the number of vehicle movements and minimise impact on neighbour amenity

- The scheme would result in serious overlooking of surrounding property to the north, west and south and in particular Old Walls and Hillcrest
- The development would result in increased noise over the whole week
- The development would reduce the saleability of local houses
- Flat roof would provide the perfect nesting sites for gulls causing local amenity harm and nuisance
- Loss of views as a result of the development
- The developing would cause night time light nuisance in excess of current situation
- Refuse stores situated close to neighbouring property causing nuisance and harm to amenity through odour and potential for the attraction of vermin

#### Employment

- The development would result in the loss of a substantial employer in Sidmouth without adequate benefits being given back to the town
- The development does not meet the policy expectation that residential development would be accompanied by job creation

#### Ecology

- The development would cause harm and disruption to the protected badger setts and bat roost particularly during the construction
- The development would prevent badgers from using their natural routes to access water

2 Letters of support have been received raising the following issues:

- Objections are outweighed by the public benefits from the development of the upper garden and the restoration of the southern parkland with associated facilities
- The scheme should also be made available for younger occupiers (e.g. over 40)

## **RELEVANT PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
12/1847/MOUT	Outline application proposing demolition of existing buildings (retention of building B) for class D1 non-residential institution and park rangers station (Sui Generis), residential development of up to 50no. dwellings (Class C3 use), 60no. bed graduated care home (Class C2 use) and access (all matters reserved except access)	Refusal	08.03.2013

## **POLICIES**

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

Strategy 1 (Spatial Strategy for Development in East Devon)  
Strategy 2 (Scale and Distribution of Residential Development)  
Strategy 3 (Sustainable Development)  
Strategy 4 (Balanced Communities)  
Strategy 5 (Environment)  
Strategy 5B (Sustainable Transport)  
Strategy 6 (Development within Built-up Area Boundaries)  
Strategy 10 (Green Infrastructure in East Devon's West End)  
Strategy 26 (Development at Sidmouth)  
Strategy 34 (District Wide Affordable Housing Provision Targets)  
Strategy 36 (Accessible and Adaptable Homes and Care/Extra Care Homes)  
Strategy 37 (Community Safety)  
Strategy 38 (Sustainable Design and Construction)  
Strategy 43 (Open Space Standards)  
Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
Strategy 47 (Nature Conservation and Geology)  
Strategy 48 (Local Distinctiveness in the Built Environment)  
Strategy 49 (The Historic Environment)  
Strategy 50 (Infrastructure Delivery)  
D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)  
EN5 (Wildlife Habitats and Features)  
EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)  
EN8 (Significance of Heritage Assets and their setting)  
EN9 (Development Affecting a Designated Heritage Asset)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
EN22 (Surface Run-Off Implications of New Development)  
H2 (Range and Mix of New Housing Development)  
RC1 (Retention of land for sport and recreation)  
RC5 (Community Buildings)  
TC2 (Accessibility of New Development)  
TC4 (Footpaths, Bridleways and Cycleways)  
TC7 (Adequacy of Road Network and Site Access)  
TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2012)  
National Planning Practice Guidance

#### Other Relevant Documents

Historic England Good Practice “The Setting of Heritage Assets”  
Devon County Council Commissioning Strategy for Extra Care Housing  
RTPI Good Practice Note 8 – Extra Care Housing  
Housing LIN Viewpoint 20 – Planning Use Classes and Extra Care Housing

#### **Site Location and Description**

The Knowle Council offices comprise a series of connected buildings on elevated land within the built up area of Sidmouth. They provide existing office accommodation to the Council as well as reception and meeting facilities. Within the wider site there is also car parking which exists on three levels on land to the immediate north.

The site is primarily accessed from the main entrance driveway joining with Station Road to the north east of the site. This access driveway gradually rises from Station Road with the three car parks all located to the south but on increasingly higher levels as the site rises in a westerly direction. Beyond the western most car park the driveway turns to the south but continues to rise to the main plateau area where the office accommodation is found. This area has a series of red brick office buildings constructed in the mid 1970's. From this point the site then falls again in level in a southerly direction to the southern building and main site frontage which was the former hotel building. Little has changed in footprint terms of this part of the building since early phases of expansion occurred in the mid and subsequently late 1800's although the building has had various uses over that time.

Surrounding the site to the south of both the main building and the car park is mature parkland characterised by trees and shrubs of varying ages and species. To the north of the site are the rear gardens of properties that are accessed from the surrounding residential roads of Broadway and Knowle Drive while to the east a similar arrangement of houses and rear back gardens also exists.

Currently additional vehicle access points also exist at both a midpoint along Knowle Drive (accessing the rear of the older building) and a southern access that leads into a service yard and depot area that is at the edge of the site and well screened from the parkland by existing trees.

To the south of the main building beneath the terraces lies the summerhouse which is a grade II listed structure set within the parkland. Beyond that the nearest listed buildings to the site are Balfour Lodge which lies adjacent to the entrance to the site from Station Road and Claremont which lies on the opposite side of Station Road from the Parkland. Other listed buildings in the area include the Grotto at Knowle Grange and Powys House.

### Proposal

The proposed development comprises the redevelopment of the entire office complex excluding the existing care-takers flint faced building located to the immediate south of the office reception area. This building is hereafter referred to as building 'B'. Overall the scheme now proposes the construction of 113 apartments split across 6 blocks of development on the "plateau area" (site of the existing office buildings) and an almost completely enclosed square courtyard development straddling the middle and upper car park areas called "The Dell". Additional facilities included within the proposal comprise the provision of a restaurant/cafe and wellness suite, staff accommodation and overnight accommodation for visitors.

Identified and labelled as the Dell by the developers, the development that straddles the upper two car park areas is of a very different form and character to that found on the Plateau. This building which forms an almost completely enclosed square courtyard has three main components. The most striking of these is the gateway building which extends to 5 storeys in the south west corner of the upper car park. This is already the most deeply cut area of the existing site although to accommodate the development, it proposes to reduce levels by 1.3m in the corner grading back in a north and easterly direction to reach existing ground levels.

The Gateway building would have a roof formed by two components – the westerly half being a flat roof while the easterly half being twin shallow pitched gables. The building itself would be largely timber clad with a range of projecting and framed balconies to the south and east.

Taking a similar articulation and form to the pitched roof section of the gateway building, two parallel wings (terraces) would run on a north to south alignment to the north and east of the gateway building. The more easterly of these would be two storeys in height while the northern wing would be three storeys. These would again be strongly defined by feature balconies which are largely positioned on the easterly elevation. The building would be finished in a mix of render and timber with a timber shingle roof covering.

Linking the gateway building and the easterly terrace and positioned on a east west axis is the plant area, wellness suite and restaurant. These uses are located within a crisp render finished building of one and two storeys. Additional residential apartments are proposed within the first floor above the restaurant. A short east west return would also exist to the north and partially enclose the resulting square courtyard.

On the plateau area the built development would take the form of six blocks of accommodation labelled A-F within the plans. The following provides a brief summary of each:

A – upon arriving on the plateau area this building would be located to the south west of the entrance driveway and is linked to block F (see below). It would be positioned along an alignment with a slight south-west to north-east emphasis and take the form of a three storey flat roofed section to the north, a pair of asymmetrical gables both running at right angles to the main axis and a second pair of gables with linking valley on the axis of the main building. The building which would be set 1.3m lower than the existing floor level of the office building and include integral ground floor parking on the west elevation. It would be finished with a mixed palette of materials including coursed knapped flint grading to render, brick and timber. For the roof the development would utilise a red clay tile. The building would also feature a range of balcony elements.

B – this is the retained and adapted caretakers accommodation located to the south of the main entrance driveway and forming office and visitor accommodation for the proposed development. This would be largely retained in its current form but would be provided with a timber balcony on the north elevation. Where it is currently joined to existing buildings, the exposed faces would be made good to match the development.

C and D – initially follows a similar alignment to building A before a crank in the form turns the building to the south. The northern section (building C) is a four storey building with pairs of ridges following both the main building axis and running at right angles to it. This follows the same design rational as Building A including the same palette of materials and again featuring a range of balcony protrusions and cut away roof sections. Building D initially drops to 3 storeys in height with a narrow flat roofed linking section. As it steps down from the existing upper to middle lawned terrace, the development achieves four storeys of accommodation as a result of the change in levels. This element is dominated by two gables which face over the formal gardens but with a feature derived from the cut away nature of the western of the two gables to provide a large third floor balcony. At ground floor and with public access onto the associated terrace there is a glazed orangery building.

E – is a stand alone building that is only linked to D by means of a new retaining wall that both provides a means of changing levels and encloses the private gardens formed within the courtyard of the buildings being described as A-F. This wall stands at 3.4m high and would form a backdrop to the formal public gardens. Building E would be positioned on a North-east to south-west alignment with its southern most corner set behind that of building D. This building would be largely positioned on the existing upper terrace. It would present a pair of staggered gables to the SE with third floor balcony to the west and single off set gable at right angles to its main axis. Two gables would continue to extend back on the main axis to the north west. This building would maintain the palette and detailing as the buildings already described.

F – is aligned south-west north-east and is linked to building A. Together with the associated pedestrian gates in between the respective buildings described, this completes the enclosure of the private amenity space within the inner courtyard.

This building is again four storeys in height with a pitched clay tile roof above. In this instance it is formed with a hipped gable on its SW elevation (punctuated but cut away balconies) and projecting flat roof dormer window style protrusion, a single gable on the north east including a large third floor balcony, an externally mounted chimney and a pair of staggered gables facing into the courtyard on the SE elevation. This building continues the same style of development as described for the other plateau buildings including the same palette of materials.

For the development the scheme proposes 123 car parking spaces (comprising 1 per unit) with 10 visitor spaces. These are provided along the south side of the retained entrance drive, as integral ground floor parking under the three storey pitched roof section of the Dell and as integral ground floor parking within blocks A and F. In addition it is proposed that there is a designated car park located on the existing depot area in the southern corner of the development site.

## **ANALYSIS**

While a number of issues overlap in their impact, the main issues for consideration with this application concern those set out within the following list. To structure the report these will be addressed in turn and the findings on each component weighed in an overall assessment of the planning balance at the end of the report.

- Principle of development
- Assessment of use
- Design, landscape and impact on the character and appearance of the area
- Heritage impact
- Landscape
- Neighbour amenity
- Access and Parking
- Impact on trees
- Ecology
- Lighting
- Drainage
- Habitat Mitigation
- Planning Obligations
- Other Issues

### **Principle of development**

Strategy 26 of the recently adopted East Devon Local Plan identifies an allocation of 50 homes for the Council Office site. As such the principle of residential development has already been accepted on site and clearly establishes that the site need no longer be retained for employment purposes. However with the scheme proposing 113 apartments, this is above the identified allocation and as such means that the application must be treated as a departure from the Local Plan.

Departure applications however are not automatically unacceptable or should necessarily result in refusal. It is clearly set out within the Town and Country Planning Act 1990 (Section 70 (2)) that decisions must be taken in accordance with

the development plan unless there are material considerations that indicate otherwise. In this instance the proposed use complies with the allocated use (confirmed with reference to Strategy 36 of the plan) which specifically allows for care and extra care homes (C2 use) to be provided on sites allocated for residential development (C3 use). Irrespective of whether the development comprises a C2 or C3 use, which is a topic discussed in more detail in the next section, neither use is contrary to the development plan.

In terms of the nature and the reason for identifying the proposal as a departure application therefore, this solely results from the increase from 50 to 113 units of accommodation. Planning policy has for some time sought to make the most efficient use of land and this is now embodied within the concept of sustainable development set out both within the Local Plan but also national Policy (comprising both the NPPF and the PPG). Taken together these recognise that land is a finite resource and that maximising the use of available land for the delivery of accommodation particularly where this is on brown field land achieves positive outcomes in terms of social and environmental considerations. There is particular reference within paragraph 111 of the NPPF to this point, where it states that "...decisions should encourage the effective use of land by reusing land that has been previously developed". It is therefore considered that in broad policy terms 113 units is not necessarily inappropriate. As a material consideration, the delivery of an increased number of units of accommodation could allow the departure application to be supported. The recommendation whether to approve or refuse the proposals rests more particularly therefore on the individual site constraints, whether the site can physically accommodate the number of units proposed and the resulting impacts of the proposal.

In addition and while it is noted that the development would encroach beyond the south elevation of the existing office complex, the development would remain within the site allocation boundary. It is considered that little weight can be given to the cited Policies RC1 which seeks the retention of recreation areas in light of the site allocation.

### Assessment of use

The applicants have strongly maintained that the development that they are seeking planning permission for comprises a C2 development. Within the Planning Use Class Order (1987) (as amended), a C2 use comprises the provision of residential accommodation and care to people in need of care: including Hospitals, Nursing homes, Residential schools, Colleges and Training centres.

The layout of the individual apartments which range in size from 1 to 3 bedroom units allow for complete self containment. With no "on site" care provider and extremely limited overnight accommodation for carers, there has been significant concern within the processing of the application, that rather than being a C2 use the scheme comprises a C3 use (the use as an independent dwelling house (flat)). However the applicants have clarified that a number of features and provisions would be made within and through the development that put it within the C2 bracket.

As a starting point, the applicants seek to impose an age restriction of 60+ years on at least one occupier in every apartment. Importantly the units of accommodation would represent genuinely adaptable spaces that can be easily modified depending on the needs of the occupiers. This is significant as adaptability recognizes the changing needs of occupiers as they get older and helps meet the aims of whole life care – that is where people can continue to reside within their own home until they pass away. In sustainability terms and recognising the social benefits, this is a welcome aspiration as it not only tends to give people a more settled and better quality of life but also helps to reduce pressure on local health care facilities. As such the units are designed to allow easy installation of a range of aids as well as sliding internal walls and the ability to allow for live-in carers.

Supporting the room configuration component, is an onsite restaurant and wellness suite, cinema room and residents lounge. These allow for social interaction of occupiers and help to overcome the isolation that can often occur in older age. In addition the wellness suite provides facilities for treatments which can aid general well being and improve the health of residents including rehabilitation following operations. The overall package represents an attractive suite of measures that could provide significant benefits for the over 60s who would occupy the development.

However further distinction and refinement is needed to set this development aside from a block of luxury apartments which would fall within a C3 use class. To address this and help underpin the assertion that the development is an extra care C2 use the applicants are also offering a health needs package that addresses the fundamental test of a C2 use – that is that occupiers should be “in need of care”.

In this instance the health needs package which in the event of approval could be secured and implemented under the control of an agreed Section 106 agreement including the following:

- 24 hour monitored emergency call system within each Residential Unit providing access to specialist trained operators;
- initial and subsequent Health Assessments to identify required personal care
- a minimum of 2 hours of Personal Care a week;
- regular cleaning and management of communal areas;
- a staffed reception / management suite and office to provide day to day assistance to all residents of the Development and to co-ordinate and organise the provision of Personal Care to each Primary Resident;

Taken together and as a result of this combined package of measures it is considered that these elements start to indicate a likely C2 use being evidenced. An important component of this list is the minimum of 2 hours of personal care which would be established for each primary resident through an initial and regularly reviewed health needs assessment. This would include components such as:

- assistance with personal hygiene; including washing, shaving, toileting;
- assistance with dressing and undressing;
- assistance with getting in or out of bed;
- assistance with the planning and preparation of meals

- assistance with feeding and drinking;
- assistance with the ordering and collection of prescriptions,
- assistance with technology to facilitate internet shopping for home delivery, payment of bills, keeping in contact with family members, the pursuit of hobbies and for organising social activities for residents,
- assistance with organising GP/hospital/consultancy visits for medical appointments including accompanying residents to such visits and the provision of emotional and psychological support and physical care following any hospital discharge;
- collection and parking of vehicles within the Site;
- assistance to residents to enable them to access all facilities within the Development;
- assistance with arranging visitor access and overnight stays; and
- assistance with general household chores and errands including assistance with cleaning and laundry and assistance with the delivery.

While a small number of the above are considered debatable as to whether at face value they fall within a reasonable definition of “care” the safeguard that is being offered is that those would only be offered to those in genuine need of that particular component.

To help support the assessment of the use class relevant to this proposal, there is a growing body of information published nationally by a range of organisations that indicates that there should be a wider definition of care than that which has been traditionally understood. In particular the RTPI have published a Good Practice Guide (Note 8) that specifically addresses extra care housing. This recognises that one of the crucial factors to considering such schemes is whether they are capable of meeting the “housing with care” and /or “lifestyle needs” of an individual who would otherwise need more intensive home care or a residential care bed. The ethos of such developments should be to promote a culture of community and independence and not to foster a culture of dependency.

Housing LIN (The Housing Learning and Improvement Network), was formerly responsible for managing the Department of Health's (DH) Extra Care Housing capital programme. As such they have extensive experience of Extra facilities and issues that arise with their delivery. In their topic paper Viewpoint 20 the C2 /C3 debate is specifically addressed. In particular this suggests that recognition as to whether a scheme would be predominantly leasehold is important and whether the development provides for facilities not normally found in retirement or sheltered housing e.g. bar, lounge, kitchen, dining room, shop, gym etc and whether care services are available 24 hours a day. In addition it suggests that the ability to purchase additional care from an onsite team, links to the local community and the availability to acquire hot meals on site are also all important.

Housing LIN consider that indicators which point more specifically to an extra care facility being C2 is the restriction of occupation by a Section 106 obligation that requires occupants to be in receipt of a specified minimum package of care service and above a minimum age, the provision of an initial care needs assessment with regular reviews and monitoring, the delivery of personal care for those who need it and the involvement of a registered Care Quality Commission (CQC) (or equivalent

body) care provider. While this list is not exhaustive it is a meaningful and a representative list from an established organisation that is wholly independent of the current application. In checking the offer within this application against this list the Pegasus Life proposals fulfil all those identified above.

Appeal decisions are rather mixed in their approach but there seems to be a growing trend towards a similar set of criteria to that set out within the Housing LIN paper. Of particular use is an appeal decision in 2012 which considered an application for provision of extra care housing comprising 60 apartments in Stratford upon Avon under appeal reference APP/J3720/A/11/2153222. Within the decision notice the Inspector states:

“Amongst those [appeal decisions considered under cross examination] the local example, Tiddington Fields (APP/J3720/A/07/2037666) is instructive, not least in view of its physical parallels with the proposal in this case, which although comprised of self-contained apartments, is far from being analogous to a block of flats, but rather, with the range of communal indoor facilities, numbers of staff employed on a daily basis and service options such as communal dining, would be distinctly institutional in form and function.

“85. I cannot imagine there would be many potential residents who were not in need of, or not anticipating being imminently in need of, at least a modicum of regular care. Moreover, reinforcement of the premises-specific culture of care and support would be effected by the terms of occupation based on minimum age and minimum take-up of care services (albeit limited in terms of hours) and the substantial service charges well beyond those that might reasonably be expected in non-institutional accommodation. The illusion of independent living would come through the physical self-containment and saleability (to qualifying occupiers) of the individual units, whereas the reality would be one of a tightly knit community unified by access to a dedicated enterprise of specialist care and security for the elderly

“86. These characteristics, when combined with a binding legal agreement as proffered in the form of a unilateral undertaking in this case, lead me to the conclusion, in the context of the threads of relevant reasoning permeating the appeal decisions canvassed by the Council, that the proposed development in this case is properly classified as within the C2 use class, i.e. *Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).*”

The above appeal decision is one of a number of similar cases where this approach has been taken in recent years. However, and while these cases are not binding they do help support officer views on the matter.

Based on all the foregoing it is considered that overall the use class of the proposed development would reasonably be attributed to the C2 use class.

The remaining factor affecting use is the justification and benefits arising from an extra care facility that is purpose built and provides specific accommodation for the whole life approach. The Care Needs Assessment submitted with the application is

very clear in recognising the aging nature of the population generally and specifically within East Devon. The model used within the supporting information indicates a need for the proposed number of units if not significantly more. We do not have access to the model used by Pegasus Life to verify their data however it is considered to be realistic when considered alongside the data included in the “Devon County Council Commissioning Strategy for Extra Care Housing”. The strategy which informed Strategy 36 of the Local Plan indicates a need for 50 extra care units in Sidmouth and 400 in total for the district split between the main towns. These numbers were calculated on an indicative rate of 65 units per 1000 people aged 75 and over who are living alone and have a limiting long term illness. While a proportion of the total need would be social housing the DCC Strategy acknowledges that 75% of older people in Devon own their own homes and that this should be reflected in the tenure split of schemes. This development could therefore accommodate 75% of that identified need but also meet the needs of those aged 60 to 75 who have not been identified by DCC’s work. It is also intended to meet the needs of those whose health has not yet deteriorated to the point of having a limiting long term illness but are in need of care and wish to live in an extra care facility that can meet their needs now and potentially for the rest of their lives. Based on the available evidence it is considered that there is a known market for this type of development which would meet a recognised and growing need in both Sidmouth and the wider district. As such the social benefits arising from the development weigh significantly in favour of the application.

National Planning Guidance is clear that the housing needs of an ageing population are an important consideration stating:

“The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households....Plan makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish. Supporting independent living can help to reduce the costs to health and social services, and providing more options for older people to move could also free up houses that are under occupied.”

While it is noted that some concerns have been raised that the development would reinforce the existing demographics and not help young people in the town or the numbers at the local schools, it is considered that the use of the application that is subject of this determination is acceptable based on the available evidence and does have overarching policy support. It would meet a defined need and therefore would not be contrary to policy in this regard.

#### Design, landscape and impact on the character and appearance of the area

The design of any new building results in change to a local environment. In planning terms the aim is to achieve a balance between allowing innovation, making the most appropriate use of the particular site and maintaining local character. Significantly Policy D1 (Design and Local Distinctiveness) of the adopted Local Plan seeks to achieve this stating that proposals should only be permitted where they respect the key characteristics and special qualities of the area in which the development is

proposed, ensuring that the scale massing density height fenestration and materials relate well to their context.

In this instance the proposed development seeks permission for a significant change from the current layout and associated built form. To help consider this change, advice has twice been sought from an independent Design Review Panel (DRP). Their comments now form a material consideration and have helped to inform the views expressed within this section.

Turning first to the development in the Dell this development would take place in an area where there is no current development. However this area is currently characterised by a significant space that is dominated by levelled hard surfacing used for car parking. While there are limited views to and through this area these are predominantly derived from the immediate area and therefore have a local setting. Important views through and up to the surrounding tree canopy help to provide the sense of a verdant and generally soft landscape

The proposed development which has been amended during the life of the application proposes largely timber clad chalet style buildings with an outlook that is primarily over the surrounding parkland area and the retained car park which would continue to be used as a park and walk facility and which is outside of the application site area. While these chalet style buildings are not found locally they are of a design and form that in itself presents a fairly soft appearance. Most particularly achieved by the use a timber shingle roof that envelops the main chalet buildings, this area of development has a character of its own that due to materials and form is not considered harmful to the local environment.

The junction between the chalet style buildings and the wellness suite/restaurant and is fairly stark and considered a little awkward in plan form. However models provided and the photomontages produced, help to lessen this concern. In addition it is noted that to read this junction would in reality be difficult. Views through to it would be substantially broken by a range of offsite trees (retained) and therefore the number of points where the junction can be read would be extremely small.

The elevation of the wellness and restaurant area that faces out to the parkland to the south is crisp in nature being finished predominately in render. With the potential loss of the row of fir trees on this boundary (these will be discussed later) the views through to this elevation would be far clearer than is currently the case. However just because it can be seen does not mean that it causes harm. In this instance the scale and massing of this component together with the modest two storeys in height (maintained with a flat roof) help to ensure that the development of this area would not dominate the parkland or be out of scale with the context.

Of greater concern has always been the gateway building. At five storeys in height this would form a substantial structure in the corner of this part of the site with its apparent massing exacerbated by not only its height but also its plan form which measures 25m x 17m. In this context this represents a substantial building. Recognising the assessment of the DRP it is considered that being set down within the deepest corner of the site does allow for a higher than normal building to be accommodated in this position.

From Station Road to the east its height would be visible and it is likely that it would in part obscure the tree canopy behind. In this regard it would struggle to be fully assimilated into its existing context although with other building form surrounding it, the harm is likely to be lessened. Its side profile would also be recognised both along the driveway leading up to the plateau area but also the parkland to the south of this part of the site. From the latter its full depth is unlikely to be appreciated but it would read as a substantial building nonetheless. However being partially obscured by both retained tree cover and the topography of rising land which is effectively located in front of the building in this viewpoint, it is considered that it does not cause substantial harm. The use of timber cladding on the more projecting part of the building would again help to soften the impact on this view.

From the driveway the height and massing of the building would be read with the chalet building in the foreground and so the impact would undoubtedly be lessened. More significantly it would enclose and give the impression of greater dominance to the top end of the driveway area where the building would be read as a three storey development to one side with retained trees between the driveway and the private dwelling known as Hillcrest on the opposite side. However it could reasonably be argued that this provides a gateway to the plateau area and as a design feature it is considered effective in achieving this function.

At the entrance to the development on the plateau area is a three storey white rendered flat roofed element (the northern part of block A). This reflects the scale massing and design of the western section of the Dell and as recognised by the DRP forms a successful linking device between the two areas of development which are otherwise of different character and form. While concerns have been raised about the heights indicated on the section drawings there is no substantive evidence that these are necessarily wrong and therefore they have to be taken as an accurate representation against which an assessment can be made. To further ensure that an accurate assessment of height has been made, the spot levels as indicated on the levels plan have also been used to check measurements.

Within this part of the development ground levels would be lowered by around 1m and graded back toward the existing driveway albeit with the crown of the current entrance drive area slightly reduced from the existing levels. In addition the highest section of this part of the development would be raised by 1.5m when compared to the roof level of the existing building. Collectively, these changes allow for the number of floors within this area to increase from 2 to 3. While of greater massing this element in design terms is not considered to cause harm recognising the presence and mass of the existing office buildings.

However the remainder of building A, and buildings C, E and F have a substantial bulk and massing that has caused significant concern. While providing four floors of accommodation this has to a large extent been achieved only by raising the roof height of the building – for building C much of this increase is in the order of 7-8m compared to the existing red brick office structure/council chamber area while the remainder of it is around 4.5m higher when compared with the roof height of the former hotel. In addition and with building depths measuring around 20m and lengths measuring between 31-35m (Building C only) these are substantial buildings

and not of the domestic scale which is more reflective of the area. As such it is not considered that this is locally distinctive or fits comfortably with the tests set out within Policy D1.

In mitigation there is good use of an attractive palette of materials which while not used in this configuration elsewhere within Sidmouth is more reflective of the materials found locally. Design features comprising balconies and cut away/inverted dormer windows also helps to an extent to break up the massing of the elevations although in themselves these too are not reflective of local detailing and design features.

From Knowle Drive the west and north west elevations of blocks A and F would be readily visible. While it has already been recognised that the floor level would be lowered compared to that of the existing office building there remains a significant increase in overall height. At the northern end (flat roof section of building A) this would be limited to a modest 1.5m while at the southern extent of building A the ridge height of the proposed building would be 5.3m above the existing flat roof of the offices. While there is relief in the massing of the combined building A and F due to the connecting single storey link between them, Building F steps up through a three storey flat roof section with balcony to a four storey pitched roof form. This component has a ridge height that is 7.2m higher than the existing offices. The impression and appreciation of buildings from Knowle Drive would therefore be of a large chunky building that is again of a completely different scale to the domestic architecture and building form that is found locally much of which is screened from the public view by the retained garden wall which itself is an attractive and traditional feature.

While it is considered that the proposed development would therefore dominate the street scene to a far greater degree than at present, it also has the effect of terminating the views and providing greater enclosure than is derived at present. Such enclosure of space can have a positive effect in emphasising a sense of place and in recognising the positive comments of the DRP it is not considered that on balance this element is unacceptable.

One of the key assets of this site is the permeability and ability to appreciate the development and proposed architecture from a range of different viewpoints. Probably the most important is the impact that the development would have on and how it would be read from the formal gardens to the south of the existing office buildings. In this view buildings D and E would be at the fore and the degree to which they project forward of the existing office building would be readily appreciated. It is distinctly unfortunate that in projecting forward by 17m beyond the front of the bay window of the committee room (25.5m beyond the front of the Members Area) that building D would result in the loss of the top terrace. As such the southern part of the existing middle terrace would become the highest available terrace and while this area would be enhanced through a revised layout, access, use, and enclosure by a retaining wall this change is considered to weaken the value of the terraces and the original garden form. The applicants have suggested that the provision of an enclosed publicly accessible orangery within the ground floor of building D would be a significant public benefit. While it may make the area more

user friendly its benefits are considered limited and it would only partially compensate for the loss of the landscape/garden feature.

Coupled with the forward projection of the buildings (D and E) the ridge height of building D would increase above that of the original "hotel" building by 2.9m. This would risk emphasising the form and massing of the new building and the associated dominance that could arise. It is recognised and has been noted by the DRP that this dominance is however partly mitigated by the quality of the architecture, the palette of materials and the elevational treatment which is most strikingly affected by a cut away gable in the third floor. The DRP were particularly supportive of a green wall to the front of the orangery which they considered as an important factor in "anchoring this element into the surrounding landscape". The plans indicate that this would be provided by means of climbing plants. Owing to the importance of this component and in recognising the weight that the DRP have given to it, it is considered that this element should be controlled through condition to ensure its delivery.

Building E is unusually positioned and at variance in terms of its orientation to other buildings within the proposed development. In a similar manner to that of building D Building E also projects forward of the existing office buildings such that the proposed building almost entirely sits on the upper terrace. While the oblique angle is not a locally distinctive arrangement it helps to soften the dominance and resulting impact of the proposed building. The DRP recognised that the proposals "when viewed from the park area to the south are considered to work particularly well".

While previously Building E projected significantly into the public space its reduction in length has reduced the degree of this intrusion. It still remains however a large building of significant mass with an undercroft area enclosing the bat roosting area that has limited articulation. Nonetheless it represents a reasonably successful design and as a result of the quality of the architecture, its detailing and materials can gain some support.

In terms of the wider landscape a range of views have been noted with objectors to the proposal raising serious concerns about the dominance that would occur and the degree of protrusion of the development above the existing buildings and trees. A range of viewpoints have been assessed by Officers. In considering these it is recognised that the degree to which the existing building sits down within the tree canopy and is set amongst existing buildings would be substantially reduced. In particular it is noted that from the middle distance views back to the site would allow a reasonable appreciation of the height and massing of the new development. In these views the current backdrop provided by the existing tree canopy would in places be lost. This indicates that the development does cause limited harm but owing to the narrowness of these views, it would only cause modest harm such that the scheme should not be resisted on this basis.

It is noted that some of the objectors have questioned the validity of the photomontages provided by the developers. Having assessed these in detail it is not considered that these are flawed but are a reasonable interpretation of the scheme as proposed. In forming an assessment of the proposal however it can be confirmed that a detailed review of actually proposed heights (based on scaled drawings and identified levels) has been made and therefore only limited reliance placed on the

images. Ultimately these form only one of a number of material considerations and ways in which the application has been assessed.

### Heritage impact

A detailed and thorough assessment of the impact on the local heritage assets has been made in consultation and discussion with the Council's Conservation Officer. It is considered that the development is too remote from the surrounding Conservation area to cause any harm to its setting. Intervening trees, built form and topography ensure that the development and Conservation area would not be read in the same context and as such no objections could be sustained in this regard. In a similar consideration concern about the impact on the AONB is also not supported in this instance. The AONB is a landscape designation and as the development would be seen within the context of verdant urban /semi urban environment, the setting and appreciation of the landscape would not substantially change.

Of greater relevance is the relationship between the site/development and adjacent listed buildings of which three are particularly pertinent to the determination of this application. Most easily addressed is the relationship to Claremont on the opposite side of Station road. While elevated above the road level the intervening tree cover, road and parking provide sufficient distance and change in context that even with new development being introduced onto the Dell area this would not harm the significance of this property through a change to its setting.

Balfour Lodge is a grade II listed dwelling situated at the entrance of the driveway to the existing offices. Listed in 1974, its significance is derived from not only its architectural and historic value but also its setting providing a gateway building to the "house" on the site of the current Offices. In this regard it is not considered that this value or significance would be harmed as a result of the development. The dwelling itself would remain unaltered and its position at the entrance to the driveway would also remain the same. While development would encroach towards it, it would retain its current space and continue to be read as a gateway building to a residential use beyond. It is considered that the development within the Dell would be set at a sufficient distance to ensure that it did not dominate the building and as such no harm is considered to occur in this instance.

The remaining listed building which has the potential to be affected by the proposed development is the Grade II listed summer house within the formal gardens and located around 26m south of the projecting bay of the former hotel. The summerhouse was also listed in 1974 at a time when the former Sidmouth Urban District Council occupied the buildings. The summer house while admittedly not a particularly pretty structure nevertheless has attractive qualities in the use of its flint and more particularly from the function that it served. While its date of construction is uncertain it is likely to date from either the early or mid 1800's when it appears to have represented a significant feature within the formal gardens associated with the main house.

The listing for the summerhouse states:

“Summerhouse in the grounds of Knowle, Sidmouth Urban District Offices SY 1287 1/16A II 2. Situated some 5 yards in front of the east wing of Knowle is a ruined and much overgrown Gothic summerhouse flint rubble and incorporating shell work. This and other garden features, Knowle Grange Flats Station Road may well be the work of Mr Fish. Curiosity value.”

The significance of the summerhouse is derived from its historic use as an outbuilding to the house and its use as a place to enjoy the gardens and historically views across the town, out to sea and across the cliffs to the east of the town. The summerhouse retains its function as a seating area within the gardens with a bench now sited within the summerhouse and orientated, as is the whole summerhouse, to look southwards. While much of the original house has been lost/subsumed over time, the summerhouse continues as a retained reminder of the formal gardens and of the dwelling that previously existed.

Legislation places a duty on all decision makers under 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stating:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

In this instance and as the building itself is outside of the development site and not being directly affected, altered or extended by the proposal, this therefore leaves the need for special regard to be had towards the desirability of preserving its setting as the key consideration.

Historic England Good Practice advice entitled “The Setting of Heritage Assets” Guidance recognises setting as an important component for the value of listed buildings and the significance of the setting is derived from how the building can be experienced. The guidance states that:

“The contribution of setting to the significance of a heritage asset is often expressed by reference to views, a purely visual impression of an asset or place which can be static or dynamic, including a variety of views of, across, or including that asset, and views of the surroundings from or through the asset, and may intersect with and incorporate the settings of numerous heritage assets.”

The views of the summerhouse and views from it are therefore key to understanding its significance and the impact the proposed development would have on it. Because the summerhouse is hemmed in by vegetation on its east and west sides views of it are very limited from the terraces to the east. Views of the summerhouse are primarily obtained from the western branch of the path leading up through the gardens from Knowle Drive with the Summerhouse being directly in front of pedestrians as they move northwards up the western arm of the path. From this viewpoint the Summerhouse is seen framed by the adjacent trees and their canopies

extending over the summerhouse with the Knowle in the background with the grassed terraces clearly visible to the sides. Further views are obtained from the top terrace in a relatively narrow view looking down towards the Summerhouse. However from this position the eye is drawn to the more distant views of the gardens and out to the sea rather than the Summerhouse itself.

Historically the summerhouse would have been viewed in association with the original house, the original much larger gardens which now comprises the properties on Knowle Drive and their gardens and it may well have been possible to view the grotto that is also listed and now sits within the grounds of the flats at Knowle Grange. While the relationship between these buildings that were all historically part of the Knowle may all have been visible and appreciated from the summerhouse in the past development of the original grounds and the growth of trees that form the parkland mean that these relationships can no longer be viewed and the summerhouse is viewed in isolation of other heritage assets and the related heritage assets cannot be viewed from it.

Views from the summerhouse would historically have been quite far reaching and would have enabled views over the town, the sea and the coast line as well as the gardens themselves. The growth of the trees within the gardens means that views from the summerhouse today are limited to the area of the gardens to the south east of the summerhouse.

Given the purpose of the summerhouse it is considered that views out from the summerhouse are particularly significant as are views from the gardens to the south of the summerhouse looking up towards it. The views out from the summerhouse of the gardens will not be altered by the proposed development and so the most important impact on the setting is primarily on the back drop when it is viewed from the south and within close proximity, and the loss of the spaciousness of the setting behind the summerhouse which is currently enabled by the terraces and the distance retained to the Knowle.

Historic England recognises that the value of setting is higher when the setting is broadly similar to the original. In this instance and while the date of construction is not known precisely, tithe maps and first edition Ordnance Survey maps show that the footprint of the principle buildings and the resulting separation distance between it and the summerhouse together with the formal garden terrace structure has remained unchanged. The bulk of the main building lies some 36m to the north of the summerhouse with a central projecting element retaining a 26m separation. This historic relationship and its retention over the years suggests that a strong degree of significance should be placed on the terraces and space that existed and continues to exist around this building.

National guidance recognises that change to a setting need not necessarily be harmful as environments evolve and adapt over time – this is important as it is rarely appropriate to retain a particular environment in aspic. The proposals as originally submitted removed the terraces and proposed the new buildings within 8.5m of the listed building. This was considered to cause substantial harm to the setting of the listed building and in light of the need to have special regard to the desirability of preserving the setting of the listed building, the applicant was asked to address this

through the submission of amended plans that set buildings back further and retained the terraces.

As amended, the proposals would bring the built form of a large four storey building to within 16m of the summerhouse thereby still causing a substantial loss to the space and associated garden terraces that currently lie behind the listed building. Clearly the setting of the summerhouse is defined by the spacious gardens around it and it being detached from the main house that it would traditionally have served. Therefore retaining a sufficient separation distance is key to protecting its setting. Accordingly the revised design is still considered to harm the setting as it undermines the historic links that the building has with the past garden arrangement and the footprint and positioning of the original buildings. However the amended plans are considered to have reduced the harm to the setting of the listed building from substantial to less than substantial.

In this regard national policy, being paragraph 134 of the NPPF, states that:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.’

and this position is replicated in Policy EN9 – Development Affecting a Designated Heritage Asset which therefore fully accords with paragraph 134 of the NPPF.

Accordingly, the policy position is that even where there is harm (being less than substantial harm) this does not mean that the proposal must be refused, but rather the development should only proceed if it can be concluded that the harm to the heritage asset is outweighed by the public benefits from the development.

It has already been identified that the law requires special regard to be had to the desirability of preserving the setting of a listed building. This means, following a number of High Court cases, that when considering the balancing exercise of whether the public benefits outweigh the identified harm to the listed building, considerable importance and weight must be given to the harm and the statutory requirement of having special regard towards preserving the listed building. In essence therefore, there is a strong presumption against granting permission for development that would harm the setting of a listed building.

A further factor relates to whether or not there are alternative sites available to accommodate the development which could mean that no harm was caused to the setting of the listed building. This issue was considered by the High Court in 2014 when a judicial review was heard against the approval of an affordable housing development that impacted on the setting of a listed building and conservation area. The local planning authority were found to be at fault for not adequately considering alternatives that enabled the public benefits of the affordable housing to be realised without the impact on heritage assets. In that case there was potentially an alternative site that was available in the locality for the delivery of the required affordable homes. While this case is different in many ways from that High Court case it does nonetheless establish a principle of considering alternatives when carrying out the balancing exercise.

The above means consideration should be given to whether there could be provision on other sites that cause no harm or whether the proposal can be provided in an alternative form that removes the harm. If the proposal can be provided elsewhere or amended to avoid any harm, the proposal should be refused.

With regard to other sites, there are no known alternative sites that are available to provide the proposal within Sidmouth that would comply with Local Plan policy. The application site is designated in the local plan for residential development and there are no other housing allocations in Sidmouth in the Local Plan. The allocation was based on an assessment of alternatives through the Local Plan process and as such it is considered to be the most appropriate site for the proposal, particularly bearing in mind the need for care spaces in Sidmouth as identified under Strategy 36 of the adopted Local Plan.

In terms of whether the proposal can be amended further to remove any harm to the listed building, the applicant has concluded that it is not possible to make any further changes to Building E for the following reasons:

- The awkward shape of the site would not permit a building of the same proportions and architectural style as the rest of the development;
- There would be a substantial loss of built area once access, building orientation and landscape design are considered. This would make the development unviable.

In effect the applicant is arguing that to retain suitable separation distances between existing and proposed dwellings, whilst providing suitable pedestrian access, amenity space and car parking, there is no scope to further amend Building E whilst retaining a viable development.

Although the applicants case focuses on Building E and fails to consider a total re-design for the site and is not supported by any detailed viability information, it is accepted that further changes to the site and/or Building E will result in a loss of further units that would impact upon viability and the quality of the final development given that the removal/substantial amendment of Building E would leave an unusual relationship between buildings D and F and a less than suitable frontage from the development to the park.

Whilst the case for alternative development of the site and impact upon viability has not been covered by the applicant in as much detail as officers would have liked, it is accepted that the removal/further amendment of Building E beyond that which has already been carried out throughout the application process, or total redesign of the site, will have implications for viability and the quality and visual impact of the development. It is worth noting at this point that the design and quality of the development has received favourable comments from the Devon Design Review Panel and any substantial amendments could detrimentally impact on the design.

As there are not considered to be any suitable alternative sites and redesign to preserve the setting of the listed building could impact upon viability and the quality of the proposal, consideration needs to be given as to whether the public benefits

outweigh the harm (remembering the considerable importance and weight to be given to the duty to have special regard to the preservation of the setting of the listed building).

The applicant has put forward the following as the key public benefits:

- “The creation of a holistic assisted living community that will meet the needs of the rapidly growing older population and address the shortfall in provision of extra-care accommodation in East Devon.
- The delivery of 113 new, high quality apartments specifically designed to meet the needs of older people and accompanied by a range of supporting services and facilities.
- The release of additional family-sized accommodation onto the general market as older people are able to move to specialised accommodation.
- The sensitive redevelopment of a prominent brownfield site within the built-up area of Sidmouth with a development that is compatible with its surroundings in terms of land use, built form and scale.
- The replacement of the existing buildings and structures on the site which together do not make a positive contribution to local townscape character, with a high quality contemporary development which incorporates elements of the historic character and vernacular of Sidmouth.
- The preservation and enhancement of the Knowle parkland as an important local recreational amenity.
- The introduction of new publicly-accessible facilities, including a restaurant/cafe/bar and health and well-being suite, which will create a sense of place and focal point for activity at the Knowle.
- The creation of an Orangery which will be accessible to the public providing a new place where public visitors to the park can enjoy the views, meet friends or just shelter from the rain.
- The introduction of distant views through the Knowle site through the break-up of the existing building mass.
- The preservation and enhancement of the setting of the key, historic features in the vicinity of the site – Balfour Lodge, the Summerhouse and the Knowle parkland.
- The protection and enhancement of the ecology and biodiversity of the site, including the provision of new habitat for bats and birds.
- The protection and enhancement of the important trees on the site, together with a comprehensive approach to the introduction of new planting and landscaping to contribute to a new arboricultural generation.
- The relocation of the existing Gingko tree to a new setting within the Knowle parkland for enjoyment by future generations.
- The introduction of high quality and well maintained landscaped areas within the development that the public will enjoy when walking through the park.
- A significant overall reduction in traffic movements to and from the site and, in particular, a reduction in the use of the surrounding residential streets for site access and egress.
- Improvements to the existing footway network with the development site opening up new routes to make the public parkland more accessible to all members of the community.

- A financial contribution towards the construction of new public footpaths across the Knowle parkland to create new physical links between the parkland and the publicly accessible facilities comprising the restaurant/cafe/bar and health and well-being suite.
- The introduction of fully compliant step-free paths at suitable gradients for disabled use throughout the park.
- The transformation of the existing depot area from utilitarian back-of-house to well-maintained landscaped area.
- The provision of a new south facing public viewing terrace with seating and extensive planting.”

Not all those items listed above are viewed as a public benefit, for example officers have concluded that the setting of the Summerhouse is not preserved. In addition the proposed footpaths across the parkland are not considered to be necessary to make the development acceptable and could not therefore be secured under government guidance contained in the NPPF in relation to the use of planning obligations. Overall it is however considered that there are public benefits particularly those of the creation of 113 apartments with care provision and the social and economic benefits that can be derived from that coupled with the potential enhancement of the site and the public facilities proposed that will lead to substantial public benefits from the development provided they are concluded to be of genuine benefit. To properly conclude this part of the assessment therefore requires consideration of the scheme as a whole and therefore a conclusion on the public benefits will be considered within the final summary and conclusion at the end of the report.

### Neighbour amenity

Around the site existing neighbours only lie to the north (Broadway) and to the west in Knowle Drive. Affecting properties to the North development on the Dell presents side elevations to the rear gardens at a height of two and three storeys. Within this relationship the development would be set at a distance of 19m from the garden boundary and 29m from the rear elevation of the closest house (Green Acres). With only limited fenestration in the north elevation of the development these distances are sufficient to prevent harm in terms of dominance and overlooking. Even with a proposed external balcony on the east elevation of the western side of the Dell, the distance remains acceptable to prevent overlooking. In this instance separation distances to the closest boundary would be 25m which is sufficient to negate any harm particularly as the views would be further broken by retained trees.

To the west of the Dell site lie three residential properties called Amberly, Holroyd and Hillcrest. The garden boundaries of the more northerly two of these are set at distances of 20m and 26m which are again considered sufficient to ensure that the development does not cause dominance overshadowing or harmful overlooking even from the gateway building which stands significantly taller than the apartment building to the north.

Hillcrest however is in a more exposed position being set 18m from the full elevation of the gateway building and on higher land than those to the north. Whilst it is recognised that there is a significantly overgrown hedge that lies between the two

sites, it is not appropriate to solely rely on that for amenity protection. By their very nature plants can die and therefore there is a risk that the relationship could exist without such mitigation. In such an event the gateway building as proposed would be visible and is not considered a particularly neighbourly development. However recognising that compared to the natural ground levels at the top of the driveway, the gateway building would only stand as a flat roofed 3 storey building the degree of dominance is modest and considered acceptable. Overlooking towards Hillcrest is slightly more problematic although the scheme allows for a separation distance of around 22.5m. This is reasonable for a window to window distance. However all the flats on the west elevation of the gateway building have integral balconies. While the angle of sight from the two lower floors is such that most reasonable boundary screening would secure appropriate privacy, the upper floor would generate a far steeper angle of view. While it is considered that in this instance, windows in the gateway building would be acceptable in their current form, the balconies given both their height and the sense of openness, have the potential to cause a perception of overlooking which could be considered harmful. As such and in the event of approval of the proposal, the west elevation of the upper floor balcony should be fitted with a privacy screen. This would help to mitigate the impact on Hillcrest while maintaining a light, attractive and usable balcony which have their principle views to the north and south respectively.

Also affecting Hillcrest is the development of the northern part of building A within the Plateau area. This maintains the three storey approach to development within this part of the site but owing to levels changes would be only 1.5m higher than the existing offices. At its closest point, the proposed development would have a separation distance to the boundary with Hillcrest of 14m with the mass of the proposed building angled away from this point. Recognising that Hillcrest is a bungalow with its primary rooms (lounge, and dining room) facing south towards this part of the development site, the proximity of the development is recognised as being uncomfortable. However the actual dominance is considered to be modest and light and sunlight assessments submitted by the applicant indicate that light levels should not be particularly adversely affected. It is noted that the assessments submitted do not include a mid winter assessment when harm is likely to be at its worst due to the low trajectory of the sun. However for the rest of the year the situation is considered acceptable and as such it is considered that insufficient harm would arise to resist the development on this basis.

Overlooking from the northern elevation of Building A and in particular the north facing balcony above car parking spaces 43 and 44 remains an issue despite the revised elevation that the applicants have recently submitted. The windows are however secondary to the respective rooms that they serve and could be conditioned as being fitted with obscure glazing in the event that the application is approved. The north facing balcony on the upper floor is however harder to resolve as this is a design feature of the development and already has a restricted outlook to the west. However given the reasonable concern about overlooking a suitable condition could be imposed. This would still allow an outside space for the occupiers of the relevant unit albeit with a restricted outlook. Projecting balconies to the south are considered to be set at a sufficient distance from Hillcrest not to cause harmful overlooking.

To the west the next important relationship to consider is that with the property known as Old Walls. This dwelling is obliquely angled to the main site and has the benefit of Knowle Drive providing some of the separation distance. In addition it presents its less sensitive front elevation to the road and the development site which reduces the potential harm arising from overlooking and dominance.

In this instance the separation distances range from around 18m to in excess of 30m. While Old Walls is a single and two storey dwelling in brick and painted brick with front facing courtyard onto Knowle Drive, its main private garden extends to the west behind a fence and hedge. While the alignment and plan form of the development is different to that of the existing offices in this location the floor heights and positions do allow for an assessment in terms of overlooking to be considered. In this instance it is recognised that the angle of the development and its increasing separation distance is sufficient to mitigate for any overlooking from the second floor. More concern arises in respect of the third floor more particularly in respect of the open balcony located above parking spaces numbered 25 - 27. However views into the private rear garden from this position would be restricted by the projecting two storey gable of Old Walls itself. As such it is considered that despite the increased massing and height the angle of the development is sufficient to ensure that harmful impacts should not occur.

Further to the south and west the relationship between the development and properties known as Chestnuts, Burgh House and Knowle House need to also be addressed. These are all set on significantly lower ground and at a sufficient distance to ensure that dominance and overshadowing do not occur. Concern has been expressed about the potential for overlooking from the upper floor balconies however at the closest point the balconies are 13m from the neighbour's boundary and although at high level the balcony will be screened by trees that form part of the planting schedule and the neighbouring houses are set some 30m from their rear boundaries. It is therefore considered that views into their gardens would be limited to the very end of the gardens and even then at 13m distance while views to the main amenity areas and the houses themselves would be very restricted due to the distance and the higher level of the balconies which mean that residents will largely look over the top of the houses.

While considering amenity, concern has previously been expressed to the applicant about potential conflict between a small number of the various flats – particularly in relation to missing privacy screens on balconies where it appears that shared balconies straddle different apartments and where there is overlooking between balconies that face towards each other with only a modest separation distance. Currently these issues have not been addressed. While the relationships identified are considered unfortunate and could be improved they are internal to the proposal. As such and without harm being so severe, it is therefore down to the individual purchasers of the respective units to consider whether they are content with the relationship that would result if these elements remain unchanged.

The final consideration in terms of amenity is the impact that could arise from the vehicle movement around the site. While more consideration will be given to this in the next section it is recognised that the current use is for a busy office. While this primarily results in weekday movements and a much quieter environment in the

evening and at weekends, the overall number of movements should not cause significant harm. With the exception of a linking driveway extending down through the site to the south and joining with the current depot area the rest of the road/driveway configuration remains largely as the existing. As such and with vehicle movement more spread out rather than being concentrated to particular times of day the amenity impact is considered extremely limited. In particular noise and disruption to the occupiers of Hillcrest may be improved due to the changed topography at the top of the driveway and the reduction in ground level meaning that vehicles would be set down below their current level.

### Access and Parking

To access the redeveloped site it has already been recognised that the primary access for all would be the existing driveway entrance onto Station Road. As part of the development the western access from Knowle Drive and leading to the current post room would be closed and reconfigured to provide a ramped pedestrian route only. The southern access onto Knowle Drive would be retained and limited to use by refuse and emergency vehicles only. Overall this configuration has the potential to reduce vehicle movement along Knowle Drive which owing to its limited width, steep gradients and limited forward visibility is an improvement.

The site is situated further from the town centre and the full range of services than would usually be encouraged for such a development where the aim is to ensure that occupiers have the best chance of continuing an independent lifestyle and be able to access shops and services without assistance. It is recognised that the walk between the Town centre and the site is up a steady incline and of a distance that could dissuade some from walking. However the site is also well located in terms of bus services with bus stops located at the cross road of Station Road, Broadway and Peaslands Road. From here, regular services access the town centre although it appears that currently no service directly connects the site with the medical centre and Waitrose at the top of Stowford Rise. While this is a minor short coming, it is considered that overall the site is located in an accessible position for the proposed use. In addition the application is accompanied by a travel plan which considers appropriate measures to help minimise car dependency while still enabling the occupiers to make full use of the local facilities. This is also appropriate in this instance.

To help ensure access to the bus stops and suitable pedestrian crossing points, the applicants have indicated within their assessment that limited upgrading works to the entrance to Broadway would be required. These would comprise the introduction of new dropped tactile crossing points and the building up and extension of a kerb on the north side of this junction to provide a safe bus waiting area. It is considered that this benefit can be provided without compromising the vehicle movements within the area and has been found to be acceptable within the response from County Highways.

Of particular concern to a number of residents is the level of parking provided. Overall it amounts to one space per unit with 10 visitor's spaces. Based on the local plan this figure is below the expected target of 1 per 1 bedroom and 2 per 2+ bedroom units. However it is already recognised that this is a C2 use and the

applicants have indicated that they would restrict occupiers to a single car per unit although this is not a measure that the Local Planning Authority can reasonably secure.

Within their supporting statement the applicants have identified that based on survey evidence from residents in Sidmouth (2011 census data) 75% of households had access to either none or only 1 car, with the average across the entire number of households being at 1.1 cars being skewed by a small number households who have more than 2. In addition it is recognised that the development is targeted at an age group where car ownership falls and therefore it is likely that a higher than average number of households would not have a car at all. In this instance it is considered highly unlikely that all 113 spaces would be occupied at a single time resulting in additional visitor's spaces being available. As such it is considered that the policy appropriately addresses the target figure of the Local Plan and provides adequate parking for the intended use.

In addition it is also noted that the provision of 123 spaces for a scheme of this size is significantly in excess of parking standards that have been found acceptable by this Authority on other retirement and care based developments and been found to be acceptable. Such findings also help to provide reassurance over the concerns raised locally that the development would lead to additional people parking on Knowle Drive to access the development on foot. With adequate spaces being provided within the development site this concern is unlikely to materialise. As such it is considered that the parking situation on Knowle Drive is likely to improve over the current situation.

It is noted that whilst most of the car parking provided on site is closely associated with the development itself and therefore would primarily affect future occupiers, parking in the satellite car park to the south of the site backs directly onto third party/neighbouring properties. Concern has reasonably been raised about harm to the amenity through the head light glare through a hedge of varying quality and with a significant number of gaps at the bottom. To help mitigate this effect a more detailed boundary treatment scheme would be necessary and could be secured by condition in the event of approval.

In terms of access local residents are concerned about the additional vehicles that would be attracted to the area and in particular the additional number of service vehicles that would use the main development driveway to serve the development. As a result of geometry and road alignment the vehicle tracking submitted with the application indicates that a number of these (delivery and refuse) would turn at the top of the driveway around the corner formed by the garden boundary of Hillcrest. Occupiers of this property are understandably concerned that the additional number of vehicles turning in this area would cause additional noise, fumes and disruption from the current situation.

While it is recognised that additional turning would occur (over and above the current number of turning movements at this point) it is likely that the vehicle movements more generally would be more spread throughout the day rather than concentrated at peak times. This should do much to ease pressures on this junction and avoid

any queuing or traffic conflict - it is not anticipated that cars would turn in this area having adequate other turning points themselves elsewhere within the development.

In addition slight changes to the shape of the corner and a reduction in levels that reduce the steepness of this area and set these movements further below the level of the garden of Hillcrest are considered to mitigate to a large extent the likely impact. Overall it is not considered that this element would cause significant harm although the concerns of the occupiers are fully recognised.

The remaining concern about access lies in the assertion that a number of paths would be closed as result of the development. While it has been found that there are no public rights of way around the current offices, the developers are seeking to maintain these as permissive paths. This results in a retained public benefit which could be secured through a Section 106 agreement and therefore does not adversely affect the determination of this application

### Impact on trees

A key feature of the existing site is the number and quality of trees that provide a very verdant character to the site and provide important framed views within and through the area. As such Policy D3 expects there to be no net loss in the quality of trees as a result of the development and for it to be demonstrated through an assessment carried out in accordance with BS 5837:2012 and that a harmonious and sustainable relationship between structure and trees can be achieved.

In this instance the scheme as proposed necessitates the removal of a small number of trees. Around the Dell area these are limited to a category C Cherry, Indian Bean Tree (Category C) An acacia and two birch trees (all Category C) and two groups of Monterrey Pine (categories B and C). The most significant of these trees are the Monterrey pines which currently provide a striking feature along the south side of the middle car park. However a detailed assessment of these both by the Councils Arboricultural Officer and the consultant acting for the developer has indicated that the leading tree has got a significant structural weakness which will shorten its life. In addition it is recognised that this tree species can readily shed limbs and are a more risky tree to maintain. The concern follows that owing to the proximity of the trees growth to each other if the leading tree fails all the others in the group would be unsustainable. It is therefore considered better for the trees to not form a constraint to development, be removed and for a comprehensive replanting exercise to be undertaken.

The replanting exercise in this instance is extensive and while changes to species are proposed it would enable the next generation of trees to be planted. For sucessional tree development this approach is recognised as a sound means of progressing. Around the Dell tree planting would be strengthened along the northern boundary, specimen trees added to the edge of the driveway and small cluster planting proposed for within the newly formed courtyard. This is considered to be an appropriate compensation and sufficient to meet the policy requirements.

On the Plateau area, most tree works are proposed along the western boundary where a group of palms, two Rowan and Cherry (all category C) are proposed for

removal together with a further cluster including Bay, Hawthorn, Sycamore and Yew which are a mix of B and C category trees. The remaining trees set for removal are a group comprising western red cedar, birch and holly, and individual trees of magnolia and birch. Notably a ginkgo tree (Maidenhair tree) is set for transplantation to a new site within the formal garden for public ownership. For reason for this tree being treated differently to others is that it has become a familiar landmark for the community and is notable having been donated to the Community and planted by a local Councillor in around 1970. As a result an agreement was reached between the land owner and developer for it to be transplanted. In the case of the trees to be removed it is regrettable to lose any trees but Policy does permit such loss where this can be justified in arboricultural terms and where there is no net loss in the quality of the trees.

In this instance all the trees identified are category B and C as based on an assessment under BS5837:2012. As such they do form a constraint to development. However the site is so dominated with trees that in terms of the character of the area and views into and through the site the loss of those identified would not cause significant harm to the character of the area. For the scale of the development proposed, the tree loss has been minimised. Further and in a similar manner to that found in the Dell, tree replacement is good with an attractive range of new trees being replanted. In time these would strengthen the character of the area and help to provide the next generation of trees on this site. As such it is considered that this element meets the expectation of the policy and no objections are raised.

The submitted information is also clear in setting out areas where tree protection of retained trees would be required as well as areas where additional care would be required during construction as a result of such alterations as a change in surfacing. Changes in levels around trees has been kept to a minimum and revised plans have been submitted to address the concerns raised by the Council's Arboricultural Officer in respect of works around the retained Sycamore along the driveway and group of Lime and sycamore on the eastern edge of the Plateau. These revisions are welcomed and further ensure that in arboricultural terms, the scheme meets the reasonable expectation of policy.

The remaining concern that has been raised with regards to tree management arises in respect of the amenity that future occupiers would enjoy where they have windows with an outlook from the east elevation of buildings C and D. These windows would face towards retained trees which owing to the proximity to the trees, the respective height and density of the trees and the significant shading effect that they would have, could result in pressures to fell or thin these trees in the future. This is not a particularly harmonious relationship although it is noted that the trees are off site and would remain in the ownership of the Council. In addition and in assessing these trees it is considered that these are of limited life expectancy and are likely to require careful management in due course in any event. It is therefore considered that in the event of approval a long term management plan which should include future replanting be secured. This would address the potential policy concerns as well as continue to provide a meaningful context for the development itself, breaking up views of what are otherwise substantial buildings when seen from the lower parkland. Owing to the offsite location of the trees this management could be secured through a Section 106 agreement.

## Ecology

In terms of ecology a detailed survey has been carried out and has built on the surveys previously undertaken around the Knowle site – most notably in 2012. While it has been recognised that the site has high ecological potential particularly as a result of the number of trees, the most significant findings rest with the bat population and identification of badger setts.

In terms of bats, updated internal and external surveys were undertaken in August 2015 and three separate dusk emergence and dawn re-entry surveys were undertaken in August, September and October. Further winter surveys have been undertaken in December, January and February 2016 to particularly consider any changes to commuting and foraging activity. The findings include 7 species of bats. Building B is confirmed as a Lesser Horseshoe roost with the loft space used as a maternity roost by up to 177 bats and as a hibernation roost for up to 70 bats. The building's basement is also a Lesser Horseshoe roost with occasional use by individuals in summer and winter. In undertaking the survey small roosts were also found within the northern roof of the southern building complex (formerly the hotel) as well as a disused roost within the roof void in the southern elevation of the same building. Owing to the number of lesser horseshoe bats recorded the assemblage is considered to be of regional value.

In an attempt to maintain the ecological status of the site as far as possible Building B is set for retention and development has been positioned to try to maintain the flight paths for the bats which are largely recorded as following the tree belt to the north crossing Broadway and then foraging in the environments beyond. While the development itself can be designed in such a way as to minimise the actual loss of roosts (limited to the loss of small roosts in the northern part of the former hotel building), lighting and light spill is likely to be the greatest issue which without suitable control could have a negative impact on the roost which is significant at the Regional Level.

As well as minimising disruption to the flight paths themselves, a lighting strategy has also been devised to try to minimise the potential for significant changes. This would address the operational phase of the development and while it requires additional details, has been found to be an appropriate response by Natural England. As such in the event of approval this element could be secured by condition.

During the construction phase good practice measures would need to be employed together with suitable timing of the work. While all of this would ultimately be controlled by a European Protected Species Licence (issued by Natural England) the Local Authority needs to be satisfied that suitable mitigation can be provided to maintain the ecological status of the site. In this instance with mitigation and suitable habitat replacement, it is considered that this can be achieved.

Other protected species on site which require consideration are badgers. These have a zone of influence which can extend beyond the confines of the site owing to their sensitivity to disturbance and to potential foraging routes being changed. While their presence on site appears to have moved in recent years and there is a slightly confusing picture as to which setts are currently occupied and which are unoccupied,

their presence remains a material consideration owing to their protected nature. In this instance and based on their current areas of occupation it is not considered that the development would have a negative impact. The submitted report recognises their evolving and roaming nature and therefore suggests a further survey prior to the start of any development to ensure that their presence can be suitably addressed at that time. This seems a reasonable and proportionate response and could be controlled by condition in the event that permission is granted.

Other wildlife and habitats remain a consideration but are not considered as having overriding influence on the assessment for the application. Provided that works are undertaken at suitable times then the risk to breeding birds can be avoided whilst trees are subject of separate assessment and suitable protection.

### Lighting

Linking with the above assessment lighting more generally needs to be considered in respect of this proposal. The submitted report recognises that much of the existing site is lit to a village standard or relatively dark outer urban edge location. To provide reassurance that this level of illumination would not significantly change as a result of the development and also to provide further reassurance in respect of the impact on bats, the submitted document aims to consider external lighting parameters for particular areas.

The report conclude that by design a scheme with reference to type of luminaries, the brightness of these, the height of columns and bollards and their relationship to buildings/spaces that a scheme can be designed which adequately lights the site while in many areas actually reduces the impact of obtrusive light trespass from the current baseline conditions. This is important not only for the local residents but also for foraging bats. It is reassuring to note that both internal and external light has been considered as the light spill from poorly positioned internal lighting can also make a significant difference to an environment/habitat. Overall it is considered that the submitted strategy provides sufficient reassurance that in the event of approval a condition could be reasonably imposed which would safeguard both neighbour amenity and the surrounding wildlife most notably bats.

### Drainage

It is recognised that much of the existing site is covered in hard surfacing which significantly affects the way that surface water is managed when compared to a Greenfield site. Throughout pre application discussions and as a result of consultation responses during the life of the application the applicants have been asked to try and deliver a scheme that is compliant with the ethos of SUDs (Sustainable Urban Drainage) where water is managed at source in a natural manner. However whilst complying with the appropriate run off standards which have been found acceptable by the Devon Flood Management Officers, the applicants have demonstrated that infiltration is not a viable means of surface water drainage on this site due to ground conditions. While they are making the site more permeable than at present by reducing the impermeable area by 269 square metres (which is a benefit in any event) they have resorted to the proposed installation of a

crate storage facility to hold water and then release to the South West Water surface water sewer.

This method is considered acceptable recognising the increased provision of permeable areas, the continued separation of foul and surface water and the ability (albeit through the crate storage facility) to meet the appropriate flood standards comprising 1:30 and 1:100 year flood events with an allowance for 40% climate change impact. DCC Flood and Coastal Risk Management Team have confirmed that they are now satisfied with the proposed drainage strategy and raise no objections to the development.

Local concern about the increased run off along the extended driveway in a southerly direction is noted. This has been specifically considered by Devon County Council who acknowledge the concerns but point out that as a result of the proposed drainage strategy the rates of surface water run off will be significantly reduced. Foul water generated from the site would be managed through the existing foul network to which South West Water have not raised any objection.

While a moderate ground water flood risk has been identified by the developers this is not considered to have any wider third party impact as a result of the development nor requires any additional specific precautions for the development itself. It is recognised that the development does not propose a basement and therefore the risk to the development is not considered to be significant.

### Habitat Mitigation

It is recognised within the response from Natural England that as well as onsite considerations in respect of protected species (namely bats and badgers) the development must also be considered against its likely impact on the protected Pebblebeds Heaths. These are internationally recognised habitats found on a series of commons to the north of Budleigh Salterton and east of Woodbury. Designated as a Special Area of Conservation and Special Protect Areas, an assessment must be made in accordance with the Habitat Regulations (more formally known as The Conservation of Habitats and Species Regulations 2010). Under these Regulations the Local Authority as the Competent Authority needs to conclude that there is no likely significant effect as a result of the development (either with or without suitable mitigation being provided) in order for a development to proceed.

A joint study was commissioned by the three adjoining Local Authorities to consider this issue in more detail and advise on and identify appropriate mitigation. This concluded with the publication of the South East Devon European Site Mitigation Strategy which identified that likely significant effects can occur within 10km of the environment but that with suitable mitigation including works both within the Heathland itself as well as off site that the likely effects can be mitigated. As few developments have any control over the heathland environment a financial contribution was identified as the best approach as this can be pooled from a range of different developments and used to deliver on site management benefits but also such off site measures as SANGS (Suitable alternative Natural Green Space) with the aim of diverting some of the recreational pressures away from the Heathland.

Prior to the introduction of CIL within East Devon these contributions were collected through the Section 106 regime (specific schemes having to be identified to ensure that the applicable pooling restrictions could be adhered to). However with CIL now in force the habitat mitigation appropriate for the designated Heathlands is now held on the Regulation 123 list and as such is only collected through the CIL charging scheme.

### Planning Obligations

Strategy 34 of the Local Plan states that “Affordable housing will be required on residential developments in East Devon...” and goes on to set an affordable housing target of 50% in Sidmouth. The evidence to support this approach is largely based on an evidenced need for affordable housing in the town and a viability assessment that considers factors such as the cost of land, constructions costs and sale values of properties in the town and concludes that schemes can generally afford for 50% of the proposed units to be affordable on top of the other planning obligations and CIL contributions required. The wording of Strategy 34 simply refers to residential developments and the evidence that supports the policy relates solely to C3 dwellings. As has already been stated Strategy 36 distinguishes between residential developments and care homes and allows residential allocations to be used for care homes. Strategy 34 only refers to residential developments and therefore given that the distinction between residential developments and care homes has been made in Strategy 36 it is considered that Strategy 34 does not apply to care home developments. Had the intention been to secure affordable housing from care homes then this would have been made clear in Strategy 34 and viability work would have been needed to demonstrate that such a requirement was viable. The viability of care homes under C2 is an entirely different proposition to residential developments given the extent of communal spaces and facilities, the costs of providing care, additional construction costs to ensure the accommodation is suitable throughout for those with mobility problems etc. The fact that the viability of such schemes has not been tested through the local plan process is a clear indication that there was never any intention to secure affordable housing from such schemes.

Historically the Council has not sought affordable housing provision from care home developments. However having determined that the proposed development would fall within the C2 use class and established that Strategy 34 was not designed to address care home uses then logically the established principle for C2 uses with regard to affordable housing should apply and therefore it is recommended that no affordable housing be sought in this case.

In terms of the Community Infrastructure Levy (CIL) the viability of care homes was specifically tested albeit at a high level. The viability study for CIL concludes that care home uses would not be able to pay CIL and so no specific charge is attributed to these uses in the charging schedule. The charging schedule lists “residential” as a development type to which charges apply, however as has already been established a distinction has been made in the Local Plan between residential development and care homes which carries through into the CIL charging schedule. There is no listed charge for care homes and therefore no CIL charge can be applied. Although this development would not therefore contribute to CIL the impact of the development on

the protected habitats of the pebblebed heaths will still be mitigated from the pooled CIL monies collected from all liable developments in the district.

### Other Issues

Other Issues have been raised both in third party comments and addressed within the supporting information provided by the applicants.

In terms of refuse the scheme proposes the provision of satellite refuse collection points around the scheme but with two centralised refuse management areas in the far south of the site where a specific building is proposed for construction as well as on the lower ground floor to the gateway building in the Dell. It is considered that with the specific housing it is likely that issues of odour and flies could be properly controlled from both these locations. However the recognisable concerns of neighbours, particularly owing to the separation distance between the development and the collection point located to the south, means that the risk of amenity harm from insecurely held rubbish (though odour and the potential for pest and vermin attack) is reasonable. To help ensure that suitable management practices are used it is considered appropriate to incorporate a condition on any grant of permission

The application is accompanied by a construction management plan which considers such aspects as the hours of construction/on site work and how waste arising would be dealt with. This is an appropriate document for this purpose and in the event of approval could be the subject of condition to ensure compliance.

In underpinning the term extra care, it is important that the facilities provided are embedded within the community. This helps to bridge the gap between an institution and independent living and ensure that occupiers of the scheme maintain social interaction with the wider society. Good public access to the restaurant and wellness suite is therefore important. Currently the public pedestrian access to these facilities is limited to a footpath link along the eastern elevation of the Dell development. This path has to pass along the front of proposed flats and would have the appearance of a private route making it less likely that it is used and therefore undermining the degree to which the care facility is embedded within the community. Improved access is therefore considered a requirement.

In addition Policy TC4 (Footpaths Bridleways and Cycles) requires developments to include measures to provide, improve and extend facilities for pedestrians and cyclists commensurate with the scale of the proposal. In this case the developer is proposing to improve access into the site from Knowle Drive and access from the parkland into the proposed cafe is also proposed via a financial contribution to the Council as the land required for this access is outside of the applicants control and council owned. Further improvements to formalise current informal routes across the parkland have been offered but are not considered to be necessary to make the development acceptable and therefore could not be required under the guidance contained in the NPPF on the use of planning obligations.

## Conclusion

This scheme proposes the redevelopment of the Council Offices with the development of 113 apartments and associated facilities and infrastructure. Recognising a range of appeal decisions and wider guidance officers are of the view that, in accordance with the applicant's assertions, the scheme represents a C2 use. As such the delivery of 113 apartments for this special form of care that seeks to promote independence within a safe and managed environment should be encouraged and in planning terms attracts significant weight. The increase in numbers above the site allocation does not in itself necessarily cause harm. It can reasonably be argued that if in all other respects the scheme is successful it represents the most efficient use of the largely Brownfield site.

However the scheme as proposed is large and has a fairly bulky appearance that is itself of a different character to the generally more domestic scale of architecture found within Sidmouth. It is recognised that some views would change as a result of the development and that some harm would arise. However the overall composition of the development as a piece of architecture is good and with an attractive use of more locally distinctive materials this helps to balance the limited harm arising from the scale and massing. The scheme has the support of the Design Review Panel.

The scheme has appropriately addressed issues associated with tree constraints, drainage, refuse and importantly parking and on these issues is considered to comply with Policy.

It is therefore considered that the scheme turns on the impact on the setting of the Grade II listed summerhouse within the formal gardens and located to the south of the existing Offices. Less than substantial harm to the setting of the listed building has been identified and under the legislation and case law there is a statutory duty on the local authority that special regard be had to the desirability of preserving the setting of the listed building and this must be given considerable importance and weight in the balancing exercise. Only if there are public benefits from the proposal that outweigh this harm should the proposal be approved. The main public benefits of this development can be summarised as follows (in no particular order):

- An increase in the supply of housing which is a key aim of government planning policy and guidance.
- The care facilities that are to be provided alongside the homes mean that the development would meet a need for private care facilities in the area.
- The development would provide additional employment for 14 full time equivalent staff within the District.
- The development would provide a public cafe/restaurant and separate orangery (both open to the public) adjacent to the public gardens and parkland and accessible from the parkland that would enhance the public experience of the space and enable users to make greater use of it.
- The well-being centre would be open to the public for at least the first 3 years.

- Provision of Interpretation panel/boards to the orangery/terrace that would allow a significantly better appreciation and understanding of the listed building by the public (secured by condition).

The above public benefits are significant although it is important to note that while 113 apartments is considerably in excess of the 50 units allocated for this site these additional units are arguably not needed. This is because the recently adopted Local Plan identifies a housing need of 17,200 homes and yet allocates over 18,000 new homes over the plan period including the 50 allocated for The Knowle. The weight given to the additional units should therefore be moderated to a degree to take into account this fact while accepting that the units are a form of housing not readily catered for in the district.

Overall the assessment of the public benefits against the harm to the setting of the listed building is quite finely balanced when accounting for the considerable importance and weight to be given to the statutory duty to have special regard to the desirability of preserving the setting of the listed building.

However, on balance, officers are of the opinion that the public benefits from the redevelopment listed above are considered to be significant and when combined with a lack of objection to any other aspects of the development, outweigh the less than substantial harm caused to the setting of the listed building.

As such the application is recommended for approval subject to the conditions listed below and a legal agreement securing the following:

- Use of the development as a C2 use with restricted occupation
- Provision of a health assessment to primary occupiers with regular review
- Provision of personal care available 24 hours a day as required
- Services of a care agency
- Delivery of care package
- Provision of Restaurant facility that shall remain open to the public
- Provision of well being facilities that shall remain open to the public
- Provision of a management company
- Use and maintenance of permissive paths within the site
- Public access to the Orangery
- Maintenance of the relocated Ginkgo Biloba (Maidenhair fern) tree
- Offsite landscape and management works
- Provision of access from the restaurant into the Parkland

## **RECOMMENDATION**

APPROVE subject to a section 106 agreement to secure the above listed measures and the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

## 2. Plans condition

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. Phasing

No development (including any demolition and site preparation works) shall take place until a revised phasing plan has been submitted to and agreed in writing. The plan shall detail site set up requirements, a programme for demolition and construction and landscaping works as necessary. It shall demonstrate a full regard for the requirements of the additional planning conditions and importantly the ecological constraints on the site. The plan shall be adhered to for the duration of the development unless revisions are previously submitted to and agreed in writing by the Local Planning Authority

Reason: To ensure that a suitable programme of development is prepared and to respect the ecological status of the site in accordance with Policies D1 (Design and Local Distinctiveness) and EN5 (Wildlife Habitats and Features) of the adopted East Devon local Plan.

## 4. Tree protection

Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of construction machinery) a detailed Arboricultural Method Statement (AMS) containing a Tree Protection Scheme and Tree Work Specification based on the submitted report under reference 15378-AA-MW and accompanying plan BT2, 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 agreed AMS. The AMS shall include full details of the following:

a) Implementation, supervision and monitoring of the approved Tree Protection Scheme

b) Implementation, supervision and monitoring of the approved Tree Work Specification by a suitably qualified and experienced arboriculturalist

c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme

d) Timing and phasing of Arboricultural works in relation to the approved development.

e) provision for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures.

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

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 during and after 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 2016.)

## 5. Protection of trees

No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, willfully 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 - 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 2016.)

## 6. Hard Surface works within the Protection Area of trees

Full details of the method of construction of hard surfaces in the vicinity of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any development in the relevant phase. The method shall adhere to the principles embodied in BS 5837:2012 and AAIS Arboricultural Practice Note 1 (1996) and involvement of an arboricultural consultant and engineer is recommended. The development shall be carried out strictly in accordance with the agreed details.

(Reason - To ensure retention and protection of trees on the site during and after 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 2016.)

## 7. Relocation of the ginkgo

The Ginkgo Biloba (maidenhair tree) identified as T68 on plan reference 15378 – BT2 shall have been fully relocated to an agreed location before development commences in respect of Building E (and for the avoidance of doubt this excludes demolition and site preparation works). The relocation shall be undertaken in accordance with a detailed method statement setting out all preparation works necessary, a prescribed timetable for the works and details of the recipient site including details of its preparation.

All preparation work shall be undertaken in accordance with the agreed method and timetable. For the avoidance of doubt the tree shall be subject of suitable protection as prescribed under Condition 4 until the point of its relocation and subject to any site preparation as identified as necessary.

(Reason - To ensure the long term retention and protection of an important tree of cultural significance in accordance with Policies D1 – Design and Local Distinctiveness and D3 – Trees and Development Sites of the Adopted New East Devon Local Plan 2016.)

## 8. Landscape management and reinstatement

No development (including any demolition and site preparation works) shall take place in any respective phase of development until a comprehensive landscaping scheme has been submitted to and approved in writing by the Local Planning Authority for each respective phase; such a scheme to include

- Hardworks Layout and specification (and where necessary samples)
- Softworks layout and specification
- Details of finishes to all boundary and retaining walls
- Tree pit and hedge planting details
- Construction detail of no dig zones in root protection area
- Programme of management for all soft works

The landscaping scheme shall be carried out in the first planting season after commencement of the development in the respective phase 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 – 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 New East Devon Local Plan 2016.)

#### 9. Details of garden furniture (provision and maintenance)

Details of all garden furniture located outside of the areas that would function as private gardens on plan reference LL532-100-00014 R2 but otherwise identified within the site boundary shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the first occupation of the relevant phase of development. The furniture shall be provided in accordance with the agreed detailed and shall be maintained for the lifetime of the development unless agreement to any variation is first obtained from the Local Planning Authority:

Reason to ensure that suitable public facilities are provided and maintained as indicated within the application and in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the adopted East Devon Local Plan

#### 10. Bat provision

No development (including demolition) shall commence until a comprehensive scheme detailing the number, position and type of bat boxes required as mitigation for the temporary loss of bat roost in Building A shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority and has been implemented in accordance with the approved details. The provision shall remain for the lifetime of the development.

In addition and in full conformity with Chapters 5 and 6 of the submitted Bat Survey Report and Mitigation Strategy Update (Final report October 2016 (Issue P15/43 – 2D)) development shall only be undertaken whilst employing all mitigation, compensation and enhancement measures identified and in accordance with a phasing strategy and timetable which shall have been submitted to and agreed in writing by the Local Planning Authority prior to the commencement of any development (including any demolition and site preparation works).

Reason: To safeguard the conservation status of designated species from the outset of development, and during and after the development has been

completed in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013 – 2031.

#### 11. Other ecological matters

In full conformity with Chapters 6 and 7 of the submitted Ecological Impact Assessment (Final report March 2016 (Issue P15/43 – 1D)) development shall only be undertaken whilst employing all mitigation, compensation and enhancement measures identified and in accordance with a phasing strategy and timetable which shall have been submitted to and agreed in writing by the Local Planning Authority prior to the commencement of any development (including any demolition and site preparation works).

For the avoidance of doubt this shall include the submission of an up to date badger survey (which shall be undertaken within a period of not more than 6 months prior to the date of the commencement of demolition) with all identified and necessary mitigation found with the report also bound by the terms of this condition being necessary to be implemented in full and maintained throughout entirety of the development process.

Reason: To safeguard the conservation status of designated species from the outset of development, and during and after the development has been completed in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan 2013 – 2031.

#### 12. Lighting strategy

No development (including any demolition and site preparation works) shall commence on site until a fully detailed lighting scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of all means of external illumination, details of luminaries, bollards and all fitting and a resulting lighting plan demonstrating the degree of light spill and illumination. The development shall only take place in accordance with the agreed details and no other means of external illumination shall be installed without the prior written agreement of the Local Planning Authority.

In addition and to minimise light spill, a scheme of internal lighting with associated specifications shall also be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any of the development. The provision of internal lighting shall follow the scheme.

Reason: Early assessment of the proposed lighting arrangements across the site is required in the interests of the character of the area and to minimise the impact of a changed lighting pattern on protected bats in accordance with Policy EN5 (Wildlife Habitats and Features) of the adopted East Devon Local Plan

### 13. Heritage Interpretation Boards

Prior to the first occupation of any apartment in Building E, a detailed scheme for the interpretation of the Folly (Summerhouse) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details and design of any structure used for interpretation purposes, the design appearance and layout of information and siting/mounting of any approved structures. The scheme shall be provided in full in accordance with a detailed timetable which shall also be included within the submission.

Reason: To ensure that suitable interpretation is provided of the Folly (Summerhouse) and that this is provided in a suitable location and within suitable timescale in accordance with Policies D1 (Design and Local Distinctiveness) and EN9 (Development Affecting a designated Heritage Asset) of the adopted East Devon Local Plan.

### 14. Materials for the buildings including sample panels

Before development shall be commenced in any particular phase as established by the agreed phasing plan under condition 3 (and for the avoidance of doubt this excludes demolition and ground preparation works), a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policy D1 – Design and Local Distinctiveness of the Adopted New East Devon Local Plan 2016.)

### 15. Climbing plant details, provision and maintenance

Prior to the commencement of development in respect of buildings D and E on the plateau area, details of the climbing plants (including evergreen Magnolia and other species) shall be submitted to and agreed in writing by the Local Planning Authority. Details shall include timing and method of application/degree of integration into the built form of the development and the means by which the climbing plants shall be maintained and replaced if necessary. The climbing plants shall be planted in accordance with the agreed details and retained thereafter.

Reason: to maintain the quality of the development and deliver an important feature of the south facing elevation in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon local Plan.

### 16. Large scale detailed drawings of building components

Before development shall be commenced in any particular phase as established by the agreed phasing plan under Condition 3 (and for the avoidance of doubt this excludes demolition and ground preparation works), large scale detailed drawings of the following components shall be submitted to and approved in writing by the Local Planning Authority.

- Window and external door details including typical sections through glazing bars mullions and transoms
- Eaves soffit and fascia details
- Balcony detailing
- Timber screens
- Porch canopies
- Junctions between external facing materials

Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are considered at an early stage and are sympathetic to the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape requirements) of the Adopted New East Devon Local Plan 2016.)

#### 17. External vent details

Details of the final position, size and nature of all externally mounted vents, flues and meter boxes shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development for each identified phase. The development shall only be undertaken in accordance with the agreed details.

Reason: To maintain the integrity and design value of the building in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan.

#### 18. Obscure glazing requirements

The Windows at first floor level and above on the north elevation of Building A (referenced on approved plan 584\_P\_312) shall be fixed shut and obscurely glazed to a minimum height of 1.7m above the internal floor level prior to the first occupation of building A. These opening restrictions and glazing requirements shall be retained for the lifetime of the development.

(Reason – To protect the privacy of adjoining occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan

#### 19. Privacy screens

The following elevations of identified balconies shall be fitted with a privacy screen details for which shall have been submitted to and approved in writing by the Local Planning Authority and the screen fitted in accordance with the agreed prior to the first use of the apartments which are served by the

respective balcony. The agreed screens shall be retained for the lifetime of the development..

#### Dell development

- West elevation of both fourth floor balconies (situated above floor level 57.74AOD)

#### Plateau Development

- North elevation of the second floor balcony of Building A (located above parking space 41)

(Reason – To protect the privacy of adjoining occupiers in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan

#### 20. Residents Parking Boundary treatment

No parking of any residents' vehicles shall take place in the designated parking area to the south of the site until details of the means of boundary treatment have been submitted to and agreed in writing by the Local Planning Authority and implemented in full.

Reason: In the interests of the character of the area and neighbour amenity in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan.

#### 21. Provision of car parking

Prior to the first occupation of each individual apartment at least 1 parking space its associated vehicle access route shall have been properly formed surfaced and be accessible for use by the respective occupiers. All parking spaces indicated on the approved plans together with the respective vehicle access routes to them shall be formed finished and available for use prior to the occupation of the 100<sup>th</sup> apartment.

Reason: to ensure that suitable parking provision is available for the residents attracted to the site in accordance with the Policy TC9 (Parking provision in new development) of the adopted East Devon Local Plan

#### 22. Drainage

The development hereby permitted shall only take place in full accordance with the agreed foul and surface water drainage details submitted on the 16<sup>th</sup> November 2016. For the avoidance of doubt this relates to the Drainage Statement rev K and associated appendices 1-10

Reason: To ensure that the development is undertaken in accordance with the agreed details and to manage the likely surface and foul water generated

from the development without causing harm to third parties – in accordance with Policy EN22 (Surface Water runoff implications of new development and EN19 Adequacy of foul sewers and adequacy of sewage treatment systems) of the adopted East Devon Local Plan.

### 23. Cycle parking and details of storage

Details of covered cycle parking/storage shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development in each phase. The cycle parking storage provision shall be delivered and made available for use prior to the first occupation in the respective phase of development. The provision shall thereafter be retained for that purpose.

Reason: To ensure that adequate cycle storage provision is made available for occupiers of the new development in accordance with Policy TC9 (Parking provision in new development) of the adopted East Devon Local Plan.

### 24. Construction management plan

A Construction and Environment Management Plan shall be submitted and approved by the Local Planning Authority prior to any development (including demolition and site preparation works) commencing on site. The scheme shall be implemented in full and remain in place throughout the development. The CEMP shall include full details of at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements.

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. There shall be no high frequency audible reversing alarms used on the site.

(Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan).

### 25. Construction details

No development shall start until a Method of Construction Statement, including details of

- (a) parking for vehicles of site personnel, operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials
  - (d) programme of works (including measures for traffic management)
  - (e) provision of boundary hoarding behind any visibility zones as detailed in the application has been approved in writing by the Local Planning Authority
- Only the approved details shall be implemented during the construction period.

Reason: In the interest of highway safety in accordance with Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road network and site access) of the adopted East Devon Local Plan

## 26. Highway works

Prior to the first occupation of any apartment hereby permitted the proposed improvements to existing bus stop facilities in the vicinity of the site access to Station Road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, shall be constructed and laid out in accordance with the application drawings.

REASON: To facilitate appropriate access to any part of the development as occupation progresses in accordance with Policy TC7 (Adequacy of Road network and site access) of the adopted East Devon Local Plan

## 27. Closing of existing accesses

Prior to the occupation of any part of the development the existing north western access from Knowle Drive shall have been closed to motorised vehicles (with the exception of mobility scooters or electrically assisted bicycles) in a manner which shall previously have been agreed in writing with the planning authority after consultation with the County Highway Authority.

Prior to the occupation of any part of the development the existing southern access from Knowle Drive shall have been closed to motorised vehicles (with the exception of mobility scooters, electrically assisted bicycles, refuse collection vehicles and emergency vehicles), in a manner which shall previously have been agreed in writing with the planning authority after consultation with the County Highway Authority.

Reason: In the interest of highway safety in accordance with Policy TC7 (Adequacy of Road network and site access) of the adopted East Devon Local Plan

## 28. Details of travel plan

Prior to the commencement of the development a Travel Plan shall be submitted for the written approval of the Local Planning Authority in accordance with the guidance contained in the Planning Practice Guidance and entitled "Travel plans" - with reference ID 42 and paragraph numbers 009 – 012 (all updated 6 March 2014). In addition the plan shall be in general with the 'Framework Travel Plan' document in the Transport Statement.

The approved travel plan shall be implemented before first occupation and for each and every subsequent occupation of the development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

Reason: To maximise the potential for the use of sustainable transport in accordance with Strategy 5B (Sustainable Transport) of the adopted East Devon Local Plan.

## 29. Refuse management scheme

Prior to the first occupation of any apartment detail of a refuse storage area management strategy shall be submitted to and agreed in writing by the Local Planning Authority. The strategy shall address how risks of odour and pest attack shall be addressed and how the storage areas will be kept clean tidy and secure. The agreed strategy shall be implemented and retained for the lifetime of the development unless a variation to it is previously agreed in writing by the Local Planning Authority.

Reason: To minimise the risk of harm to neighbour amenity through the storage of refuse in accordance with Policy D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan.

### Plans relating to this application:

LL532-100-1119 (R1)	Sections	08.08.16
584_P_312 (P)B	Proposed Elevation	08.08.16
584-P-110 (P)A	Sections	08.08.16
584-P-300(P)C	Proposed Elevation	08.08.16
584-P-301(P)C	Proposed Elevation	08.08.16
584-P-302(P)B	Proposed Elevation	08.08.16
LL532-100-1120	Sections	08.08.16
LL532-100-1121	Sections	08.08.16
LL532-100-1340	Combined Plans	08.08.16
LL532-100-1316	Other Plans	03.05.16
LL532-100-111	Sections	04.05.16
LL532-100-1112	Sections	04.05.16
LL532-100-1113	Sections	04.05.16
LL532-100-1114	Sections	04.05.16
LL532-100-1115	Sections	04.05.16

LL532-100-1116	Sections	04.05.16
LL532-100-1117	Sections	04.05.16
LL532-100-1118	Sections	04.05.16
LL532-100-1313	Location Plan	04.05.16
584-P-112	Sections	04.05.16
584-P-200	Proposed Floor Plans	04.05.16
584-P-201	Proposed Floor Plans	04.05.16
584-P-202	Proposed Floor Plans	03.05.16
584-P-203	Proposed Floor Plans	04.05.16
584-P-204	Proposed Floor Plans	04.05.16
584-P-205	Proposed roof plans	04.05.16
584-P-307	Proposed Combined Plans	04.05.16
584-P-308	Proposed Combined Plans	04.05.16
584-P-309	Street Scene	04.05.16
584-P-310	Proposed Elevation	04.05.16
584-P-313	Proposed Elevation	04.05.16
584-P-100(P)B	Proposed roof plans	27.10.16
584-P-101(P)B	Proposed Site Plan	27.10.16
584-P-102(P)C	Proposed Site Plan	27.10.16
584-P-103(P)C	Proposed Site Plan	27.10.16
584-P-104(P)C	Proposed Site Plan	27.10.16
584-P-105(P)B	Proposed Site Plan	27.10.16
584-P-106(P)B	Proposed roof plans	27.10.16
584-P-210(P)A	Proposed Floor Plans	27.10.16
584-P-211(P)B	Proposed Floor Plans	27.10.16
584-P-212(P)C	Proposed Floor Plans	27.10.16
584-P-213(P)A	Proposed Floor Plans	27.10.16

584-P-214(P)B	Proposed Floor Plans	27.10.16
584-P-215(P)B	Proposed Floor Plans	27.10.16
584-P-216(P)A	Proposed roof plans	27.10.16
584-P-311(P)B	Proposed Elevation	27.10.16
LL532-100-0001 R2	Landscaping	27.10.16
LL532-100-0021 R2	Landscaping	27.10.16
LL532-100-0041 R1	Other Plans	27.10.16
LL532-100-0071 R1	Landscaping	27.10.16
LL532-100-0075 R1	Landscaping	27.10.16
LL532-100-1123	Sections	27.10.16
LL532-100-1313	Location Plan	04.05.16
LL532-100-1122	Sections	27.10.16
584_P_316 (P)A	Proposed Elevation	27.10.16
584_P_314 (P)A	Proposed Elevation	27.10.16
584_P_315	Proposed Elevation	27.10.16

List of Background Papers

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

**Ward** Newton Popleford And Harpford

**Reference** 16/2449/HRN

**Applicant** Mrs Teresa Loynd

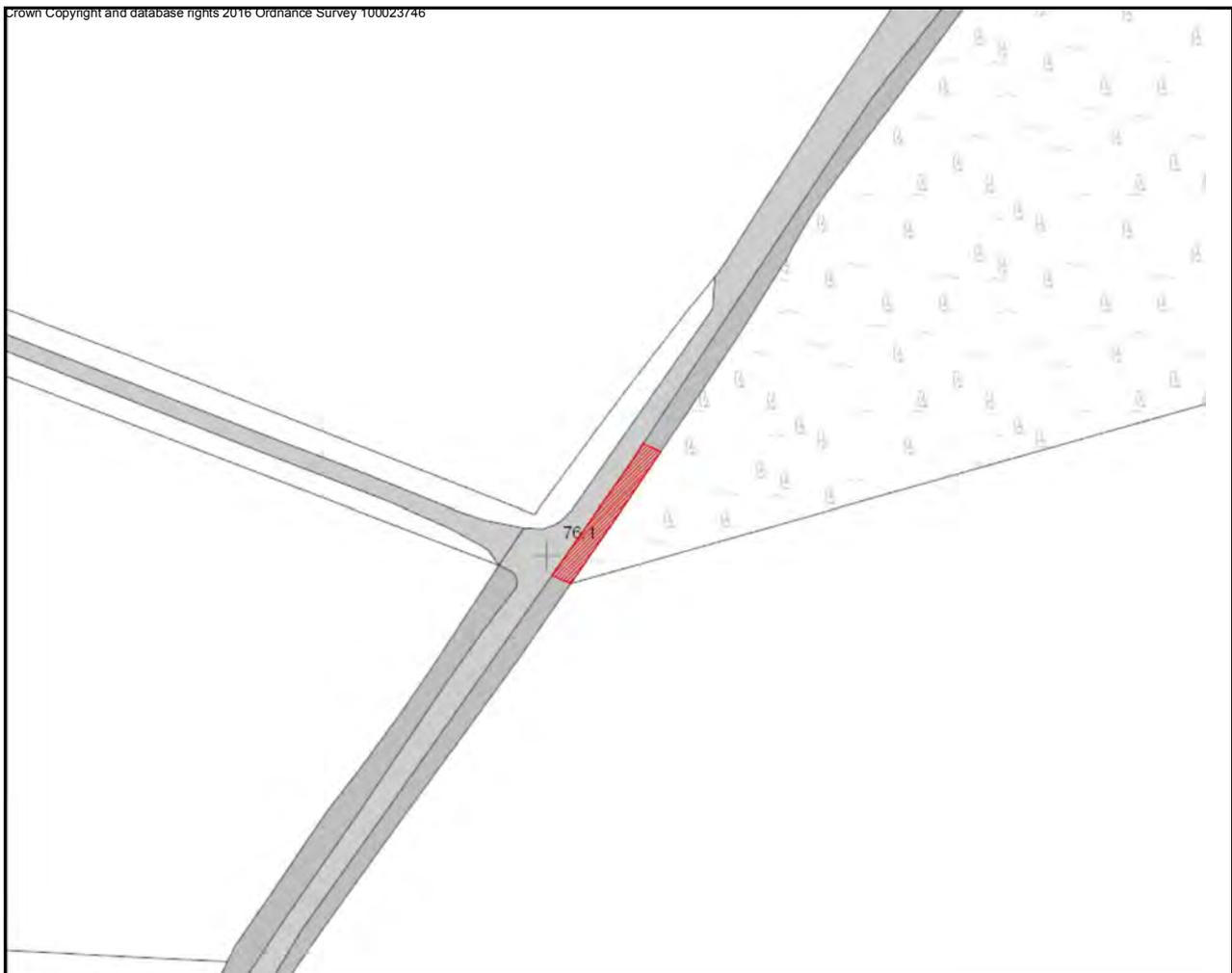
**Location** Land At Littledown Lane Newton Popleford

**Proposal** Remove 4.27m section of hedgerow



**RECOMMENDATION: Approval - standard time limit**

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		<b>Committee Date: 6<sup>th</sup> December 2016</b>
<b>Newton Poppleford and Harpford</b>	<b>16/2449/HRN</b>	<b>Target Date: 23.11.2016</b>
<b>Applicant:</b>	<b>Mrs Teresa Loynd</b>	
<b>Location:</b>	<b>Land At Littledown Lane, Newton Poppleford</b>	
<b>Proposal:</b>	<b>Remove 4.27m (14 feet) section of hedgerow</b>	

**RECOMMENDATION: Approval**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the applicant is an employee of the Council.**

**The application is to give the Council notice of intent to remove a section of hedgerow. If for any reason, the hedgerow is found to be important when judged against the criteria in the Hedgerow Regulations the Council *may* serve a retention notice. If the hedgerow does not meet the necessary criteria to be deemed 'Important' then the Council cannot prevent its removal.**

**The hedgerow has been found to be 'Important' when assessed against the Hedgerow Regulations, for historical reasons, however, the proposal relates to the removal of only a small section of hedgerow to widen an existing access. Under these circumstances, it is considered that the integrity of the field system in the area would remain intact and it would not be expedient to serve a retention notice in this case.**

#### **CONSULTATIONS**

##### **Local Consultations**

###### **Ward Member**

No comments received.

###### **Parish Council**

No comments received.

## **Technical Consultations**

### County Highway Authority

Does not wish to comment.

### Devon County Council Archivist

Tithe map and apportionment - The tithe map for Newton Poppleford is on the tithe map for Aylesbeare. The date of the tithe map is 1842 and the apportionment is dated 1841.

Inclosure award - None for Newton Poppleford

Manorial records - Court Books and Rolls: Newton Poppleford, None

Estate maps - Maps and Plans Card Subject Index: Newton Poppleford: None

Charters - Newton Poppleford, None

Other - Card Place Names Index: Newton Poppleford, Newton Poppleford Manor, Survey, 1768, Ref 96M/Box 15/11A, Deeds and Mortgage, 1699-1783, 96M/82/2, Newton Poppleford, Court Book, 1734-1771, 96M/Box 54/1, assignment, property, lease 1616-1777, 96M/Box 54/9, properties trusts, recovery, 1747, Ref 96M/67/13, lands, abstract, c1766, 96M/82/10, maps and plans Newton Poppleford (Aylesbeare), n.d. Ref 382 add/P1

### Devon County Archaeologist

No comments received.

### Arboricultural Officer

07.11.2016

An assessment of the central 30 metre section of hedgerow adjacent to the highway has been undertaken. Five woody species (Hazel, oak, hawthorn, blackthorn and ash) have been identified under Schedule 2 of the hedgerow regulations. This is two short of the criteria required for an important hedgerow.

No objection is therefore raised to the widening of the existing access.

### Other Representations

No other third party comments received.

## **BACKGROUND**

The application gives the local planning authority 42 days notice to remove the hedgerow beginning with the date the application was received or such longer period as may be agreed between the person who made the notice and the authority.

In this case, it has been agreed to extend the notification period until 9 December 2016 to enable the Committee to decide the application.

The Hedgerow Regulations set out criteria that must be used by the local planning authority in determining which hedgerows are important. The criteria relate to the value of hedgerows from an archaeological, historical, landscape or wildlife perspective. They exclude hedgerows that are less than 30 years old. If a hedgerow is at least 30 years old and qualifies under any one of the criteria, then it is 'important'.

If for any reason, the hedgerow is found to be 'important' when judged against the criteria, the Council *may* serve a retention notice. If the hedgerow does not meet the necessary criteria to be deemed 'Important' then the Council cannot prevent its removal.

### ANALYSIS

The hedgerow removal is required in order to widen an existing field access by 4.27m. The applicant has stated that the existing gateway (approximately 3m wide) is situated in a narrow point of the lane with a tight turn into the site which restricts the access of machinery to manage the land.

The Arboricultural Officer has reported that there are insufficient species contained within the hedgerow to meet the criteria for the hedgerow to be deemed 'important'.

There are no particular historical features associated with the hedgerow although the hedgerow does appear on the tithe map. Under criterion 5a, the hedgerow can be considered as 'important' if it is recorded in a document held at the relevant date (24 March 1997) at a Record Office as an integral part of a field system predating the Inclosures Acts (before 1845). The hedgerow is therefore deemed as 'important' under criterion 5a.

### CONCLUSION

Whilst the hedgerow is deemed to be 'Important' when assessed against the Hedgerow Regulations, for historical reasons, the proposal relates to the removal of only a small section of the hedgerow to widen an existing access that is restricted. Under these circumstances, it is considered that the integrity of the field system in the area would remain intact and it would not be expedient to serve a retention notice in this case.

### RECOMMENDATION

**Not** to serve a Hedgerow Retention Notice in this case.

### List of Background Papers

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

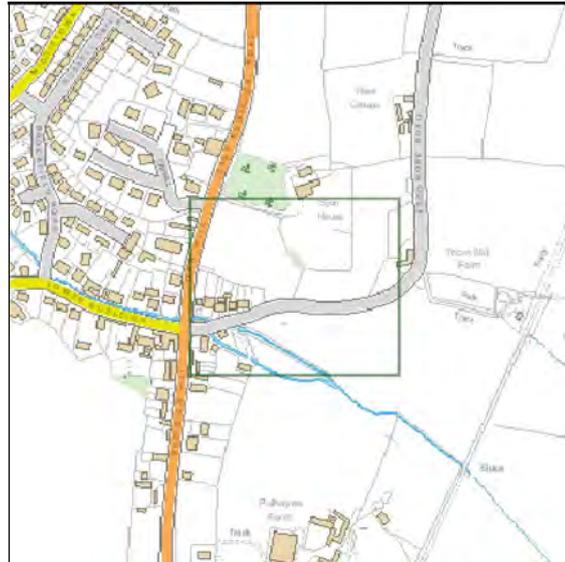
**Ward** Budleigh Salterton

**Reference** 16/1673/OUT

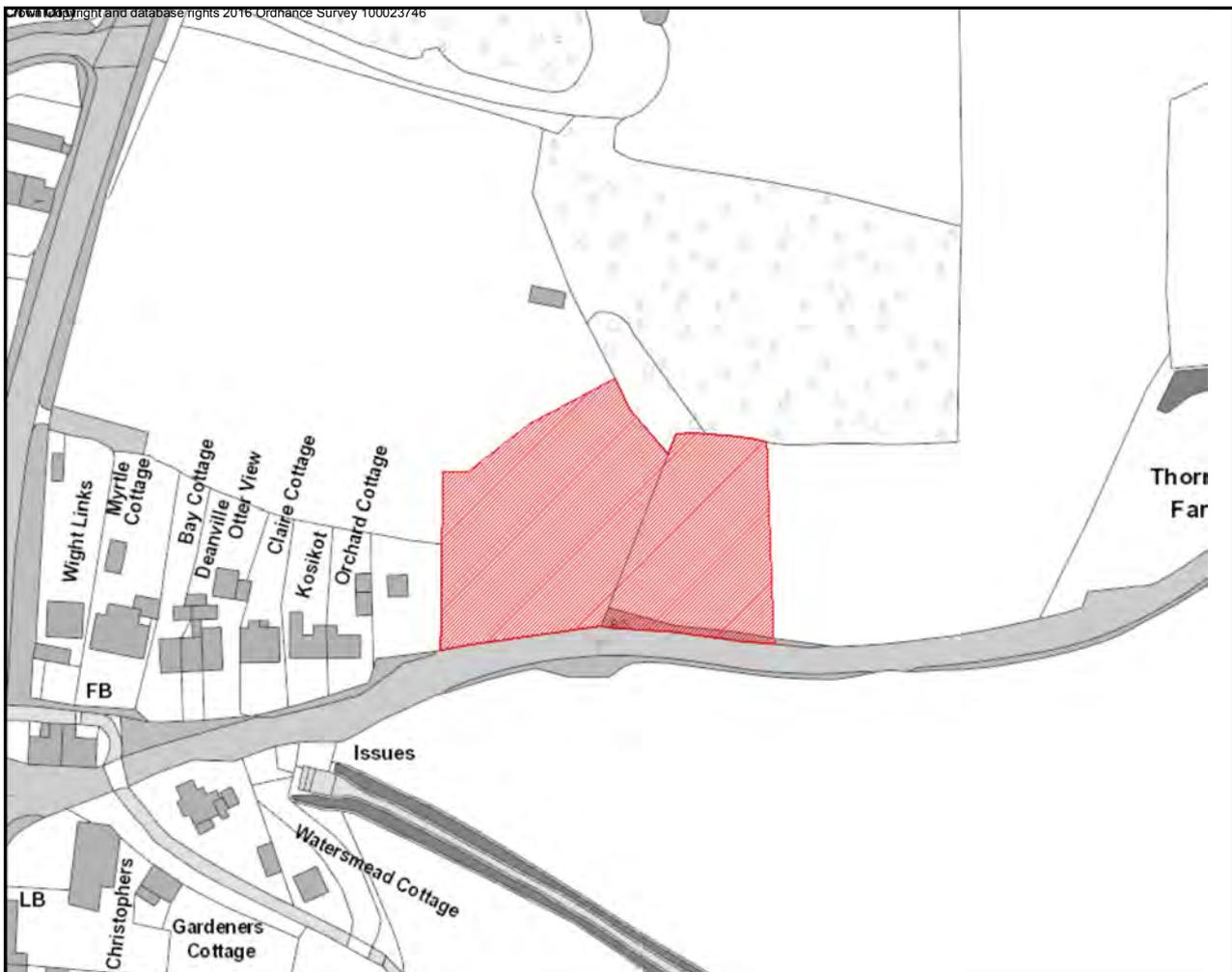
**Applicant** Clinton Devon Estates

**Location** Land At Frogmore Road East Of Oak Hill East Budleigh

**Proposal** Outline application for five no. dwellings (including three no. affordable units) with associated access (details of layout, scale, appearance and landscaping reserved).



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 6<sup>th</sup> December 2016</b>
<b>Budleigh Salterton (EAST BUDLEIGH)</b>	<b>16/1673/OUT</b>	<b>Target Date: 08.09.2016</b>
<b>Applicant:</b>	<b>Clinton Devon Estates</b>	
<b>Location:</b>	<b>Land At Frogmore Road East Of Oak Hill</b>	
<b>Proposal:</b>	<b>Outline application for five no. dwellings (including three no. affordable units) with associated access (details of layout, scale, appearance and landscaping reserved).</b>	

**RECOMMENDATION:** Approval subject to conditions and completion of a Section 106 legal agreement

#### **EXECUTIVE SUMMARY**

This application is before Members as it represents a departure from the provisions of Strategy 35 of the adopted local plan, relating to 'exception' mixed open market and affordable housing schemes outside of a built-up area boundary, and in view of the difference between the officer recommendation and the views of two of the ward members.

The application seeks outline planning permission for an scheme comprising the construction of 5 dwellings (3 affordable and 2 open market) on a site that forms part of the open countryside on the northern side of Frogmore Road on the edge of the built-up area of East Budleigh that is within the designated Area of Outstanding Natural Beauty, in part within flood zones 2 and 3 and in part on classified Grade 1 agricultural land.

All detailed matters are reserved aside from access. However, the submission includes an illustrative masterplan that shows the affordable housing in the form of a terrace of three units positioned to the west of a short central access road with a pair of detached open market dwellings to its east. The site also includes a portion of land within the adjacent field to the east within which it is proposed to install an attenuation tank for the management of surface water drainage from the development with a drainage pipe connection through the field on the opposite side of Frogmore Road to the south to the Budleigh Brook.

The application represents a departure from adopted policy as the proposal does not fully accord with Strategy 35 in that a lower than 66% affordable housing provision is proposed. Instead the affordable housing is set at 60%. However, a commuted payment is offered in lieu of the shortfall of 6% provision which equates to 0.3 of a unit. In view of the modest numbers of dwellings

proposed, the offer of the financial contribution in lieu of the limited shortfall in provision to comply with the strategy and social gains to be derived from the provision of 3 affordable dwellings to meet needs that have been satisfactorily demonstrated by an up to date survey, it is not considered that this itself weighs significantly against the proposal.

The considerable local objection to the scheme is acknowledged. However, in applying the relevant material considerations in this case it is thought, on balance, that it warrants support. The site occupies a sustainable location in relation to the services and facilities in the village and there is reasonable accessibility by way of footway links to these. Furthermore, the site is well located in relation to a public transport route with regular bus services that connect East Budleigh with other towns and villages and with Exeter. There is a Neighbourhood Plan for East Budleigh with Bicton that is at an advanced stage and includes an alternative allocation for 3 affordable units but as this has not yet been out to its referendum, it is considered on balance that it would be difficult to refuse planning permission on the basis of the conflict with the emerging neighbourhood plan.

In addition, the social gain derived from securing local needs affordable housing is considered to outweigh the limited impact likely to result in terms of the impact upon the landscape and scenic beauty of the AONB and the loss of a small area of best and most versatile agricultural land. It is also considered that the scheme can be designed and laid out to ensure that the living conditions of the nearest residents are safeguarded, trees on and bordering the site appropriately protected during the course of development with little likely future threat to their health and wellbeing, an appropriately designed surface water drainage scheme implemented to prevent any increase in runoff beyond greenfield rates and protected species safeguarded.

Approval is therefore recommended subject to a legal agreement being entered into by the applicants to secure the affordable housing element and the associated financial contribution being offered in lieu of the modest shortfall in on site provision.

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish Council**

Object on three counts:

1. The application seeks to build on Grade 1 agricultural land when lower grade land is available.
2. The application seeks to build on an environmentally sensitive site adjacent to flood zone 2/3 and inconvenient for access to village facilities.
3. The application does not provide a sufficient proportion of affordable dwelling relative to open market housing.

Budleigh - Cllr T Wright (Original comments)

It is outside the BUA, and this is the BUA proposed in the just published villages consultation. As I understand it there should be a 66% affordable housing contribution, the proposal is slightly less than this. However the East Budleigh proposed neighbourhood plan indicates a need for 3-5 affordable homes. There is therefore a finely balanced conflict between the aspirations of the East Budleigh community and the 'exception' criteria for allowing development outside the BUA.

Further comments:

Thank you for sight of the report. My objections to the previous application was mainly on drainage and flooding grounds. The new plans have addressed those issues by engineering and to some extent the present water run off situation might be improved. The introduction of 30 mph and street lighting will improve the traffic situation for existing residents. I still have some reservation about the additional need to cross the main road but people have been doing that for decades. There is strong opposition from some sections of East Budleigh residents but there is an accepted need for a small number of additional affordable homes which this proposal addresses.

Budleigh - Cllr S Hall (Original comments)

I'm unable to support this application.

This field has been in use as Grade One agricultural land for considerable time and continues to be so to this present day.

This site should never be considered whilst more suitable, lesser grade land is available elsewhere in the Parish.

A true exception site outside the BUAB should 66% affordable not 60% with a commuted sum.

Other issues are an a historic flood risk and overall impact on the village.

A democratically organised Neighbourhood Plan which has been submitted to EDDC is not in support of these proposals.

Likewise the elected Parish Council has never ever supported this site as suitable for development.

Further comments in response to amended plan:

This application continues not to acknowledge or comply with the wishes of East Budleigh Parish draft Neighbourhood Plan.

It is incorrect to imply that EBPC ever gave written or verbal consent to this development.

Budleigh – Cllr A Dent

Thank you for sight of this report prior to the DMC meeting in December.

As a member of the DMC (although I will not be there) I do not wish to make myself 'predetermined' as there will be a number of arguments both for and against put forward during the debate at the meeting.

For this reason I remain 'neutral' and knowing the people concerned both at CDE and on the East Budleigh Parish Council, would probably abstain when the vote is taken.

## **Technical Consultations**

### DCC Strategic Planning Children's Services

Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 5 family-type dwellings will generate an additional 1.25 primary pupils and 0.75 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought is £13,680 (based on the current DfE extension rate of £18,241 per pupil for Devon) which will be used to provide education facilities for those living in the development.

DCC would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Exmouth Community College. The costs required are as follows: -

1.00 primary pupil

£3.00 per day x 190 academic days x 5 years = £2,850

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

### County Highway Authority

Observations:

The proposed access on Frogmore Road is just outside of the existing 30mph limit of East Budleigh and although I do not think that the traffic speeds at the access point are particularly high, it would make sense to extend the 30mph and the street lighting in Frogmore Road so that standard visibility splays of 2.4m by 43.0m could be achieved in both directions.

There are no footways in this part of Frogmore Road, however I do not see this as a particular safety hazard or lack of pedestrian amenity at this location. Existing residents share the carriageway with motorised traffic successfully.

A previous application (14/2959/MOUT - withdrawn) proposed a footpath through the blue edged land to the north of the site. This may be something that could be explored again with this application. Although I would wish to see a connecting footway in Oak Hill that would allow pedestrians to access the crossroads at Lower Budleigh/Oak Hill/Frogmore Road.

The proposed access road from Frogmore Road would require adoption by the CHA, however the parking court would not be eligible for adoption.

Any alterations to the existing highway in Frogmore Road (speed limit, street lighting) would need to be secured in appropriate agreements with the CHA.

The CHA does not have any objection to the proposed development and recommends the following conditions are incorporated with any planning permission.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Off-Site Highway Works No development shall take place on site until the off-site highway works as shown on drawing no. \*\*\*\* have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with the NPPF.

2. No development shall take place until details of the [layout and construction of the access] have been submitted to and approved in writing by the County Planning Authority. The approved details shall be implemented before [the development is brought into use].

REASON: To ensure the layout and construction of the access is safe in accordance with the NPPF.

3. The existing accesses shall be effectively and permanently closed in accordance with details which shall previously have been submitted to and approved by the Local Planning Authority as soon as the new access is capable of use

REASON: To prevent the use of a substandard access and to minimise the number of accesses on to the public highway

4. No part of the development hereby approved shall be brought into its intended use until the

C) access

D) parking facilities

E) commercial vehicle loading/unloading area

F) visibility splays

G) turning area

H) parking space and garage/hardstanding

I) access drive

J) and access drainage

have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

5. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

REASON: In the interest of public safety and to prevent damage to the highway

Officer authorised to sign on behalf of the County Council 1 August 2016

### Natural England

The application site is in close proximity to three European Wildlife Sites (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect their ecological interest. European wildlife sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the East Devon Pebblebed

Heaths Special Area of Conservation (SAC), the East Devon Heaths Special Protection Area (SPA) and the Exe Estuary Special Protection Area (SPA) and Ramsar site<sup>1</sup>, which are European wildlife sites. The sites are also notified at the national level as Sites of Special Scientific Interest (SSSIs).

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

1 Listed or proposed Ramsar sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

2 Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

East Devon Pebblebed Heaths SAC and East Devon Heaths SPA  
Exe Estuary SPA and Ramsar Site

The application site is approximately 2.3km from the East Devon Pebblebed Heaths SAC and East Devon Heaths SPA and 6.7km from the Exe Estuary Special Protection Area (SPA) and Ramsar Site. This is within the 10km zone within which impacts of residential development on the aforementioned sites could reasonably be expected to arise in the absence of appropriate mitigation.

In the case of the European sites referred to above, your authority cannot grant permission for this proposal in the absence of a Habitat Regulations Assessment which concludes either i) no likely significant effect due to mitigation included by the applicant or, ii) no adverse effect on integrity following an Appropriate Assessment. Please note that Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process.

We therefore recommend you secure confirmation of the following to assist you in reaching a positive conclusion to your Habitats Regulations Assessment:

1. Clarification from the applicant regarding any mitigation they propose to offer, whether contributions and/or provision of Suitable Alternative Natural Greenspace (SANGS) in line with the South East Devon European Sites Mitigation Strategy (SEDESMS) and the Joint Approach of your authority, Teignbridge and Exeter to implementing that strategy.

2. For any SANGS which is to be delivered as part of the mitigation package, whether by the applicant or your Authority, a site must be identified and confirmed as suitable and deliverable prior to granting of permission.

3. A condition must be included on the permission preventing occupancy of any dwellings until an appropriate quantum of SANGS has been provided (i.e. a Grampian Condition).

**SITES OF SPECIAL SCIENTIFIC INTEREST (SSSIs)**

Providing appropriate mitigation is secured to avoid impacts upon the European sites occurring there should be no additional impacts upon the SSSI interest features of the East Devon Pebblebed Heaths and the Exe Estuary.

## PROTECTED LANDSCAPES

The proposed development site is within a nationally designated landscape, namely the East Devon Area of Outstanding Natural Beauty (AONB).

Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. We also advise that you consult the East Devon AONB Partnership. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

The policy and statutory framework to guide your decision and the role of local advice are explained in Appendix 1.

## PROTECTED SPECIES

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

## OTHER ADVICE

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

local sites (biodiversity and geodiversity)

local landscape character

local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

## SSSI Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website.

If you have any queries or suggestions regarding the IRZs, please send an email to the NE IRZs Mailbox.

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be

interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

#### Housing Strategy Officer - Melissa Wall

This application is being brought forward under Strategy 35, exception site mixed affordable and open market housing. The applicants are proposing to provide 3 units of affordable housing together with a commuted sum for the remaining 0.3. The commuted sum will amount to £9,463.

The applicants agent have carried out a housing needs survey in the parish using the methodology adopted by Devon Communities Together, which we have supported. The survey has identified a need for 3 affordable dwellings. Two shared ownership dwellings are required, one for a single person and the other for a family and one 2+ bedroom dwelling for affordable rent is required for a family.

The applicants are proposing to provide 1 x two bedroom unit and 2 x 3 bedroom units, the tenure types for the properties have not been identified. The tenure mix of the proposed affordable homes should meet the need identified in the housing needs survey in the first instance. This differs from the normal requirement to provide 70% rented accommodation the remainder as shared ownership or similar housing product as defined in the National Planning Policy Framework document or relevant policy at the time.

Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. All affordable homes should be constructed to Building Regulations M4 (2) or the relevant standards at the time of determination.

The indicative layout plan shows all the affordable housing to be located in one area; however given the small scale of the development dispersing the affordable units will be difficult to achieve and may impact upon viability.

A nomination agreement should be in place that enables the Local Authority or a preferred Register Provider to nominate individuals from the Common Housing Register, preference going to those with a local connection to East Budleigh, then cascading to parishes immediately surrounding East Budleigh then finally the district.

The site is located in a Designated Protected Area (DPA) and therefore staircasing should be restricted to 80%.

#### EDDC Trees

No objection.

The submitted arboricultural impact assessment has demonstrated sufficient space is available to achieve the desired site density whilst retaining trees with sufficient space.

Any approval should be subject to a condition requiring the submission of a detailed tree protection plan and arboricultural method statement.

Devon County Archaeologist

Dear Sir/Madam,

Application No. 16/1673/OUT

Land At Frogmore Road East Of Oak Hill East Budleigh - Outline application for five no. dwellings (including three no. affordable units) with associated access (details of layout, scale, appearance and landscaping reserved): Archaeology

My ref: Arch/DM/ED/29608a

I refer to the above application. The proposed development lies in an area of archaeological potential with regard to known prehistoric activity in surrounding landscape. Some 350m to the south-west lies a possible prehistoric or Romano-British enclosure, identified through aerial photography, while a scatter of flint artefacts have been recovered from fields to the south-east of the application area, and the site occupies a south-facing slope that may have been attractive for early settlement. Groundworks associated with the construction of the new dwellings have the potential to expose and destroy any archaeological deposits that may be present within the application area.

For this reason and in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form

of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

Further comments 3.11.16:

I refer to the above application and your recent consultation, the Historic Environment Team have no additional comments to those made previously, namely: The proposed development lies in an area of archaeological potential with regard to known prehistoric activity in surrounding landscape. Some 350m to the south-west lies a possible prehistoric or Romano-British enclosure, identified through aerial photography, while a scatter of flint artefacts have been recovered from fields to the south-east of the application area, and the site occupies a south-facing slope that may have been attractive for early settlement. Groundworks associated with the construction of the new dwellings have the potential to expose and destroy any archaeological deposits that may be present within the application area.

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on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

#### DCC Flood Risk SuDS Consultation

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the proposals, which is outlined below.

Section 3.5 of the Syon House Drainage Strategy (Report Ref. WE03641/DS 2016, Rev. V2, dated 14th July 2016) states that to take account of climate change, an extra 30% has been included in the calculation of the 1 in 100 year rainfall event. However, following the publication of the Flood Risk Assessments: Climate Change Allowances document (dated 19th February 2016), the applicant will be required to use a climate change uplift value of 40%.

Section 3.6 of the aforementioned document states that surface water runoff from the proposed development will be managed by infiltration blankets and soakaways. However, the applicant will be required to provide evidence that infiltration is a viable means of surface water disposal on this site, preferably by means of infiltration testing results in accordance with Building Regulations (Part H) (2010).

If this is not possible, the applicant will be required to submit details of an alternative, purely attenuation-based, surface water drainage management system, which could be utilised if infiltration is later demonstrated as being unfeasible on this site. The applicant should also note that where infiltration is not used, long-term storage must be provided to store the additional volume of runoff caused by the increase in impermeable area, which is in addition to the attenuation storage required to address the greenfield runoff rates. This should discharge at a rate not exceeding 2 litres/second/hectare.

I would therefore advise the Local Planning Authority that the applicant has not provided sufficient information in respect of the surface water drainage aspects of the planning application in order for it to be determined at this stage.

#### Other Representations

A total of 42 representations of objection have been received, including raising the following grounds:

1. Site is in an unsustainable position on a greenfield site on Grade 1 agricultural land outside of the village boundary and in the AONB; no exceptional circumstances have been demonstrated to justify building on this site.
2. Disquiet that the application is submitted at the present stage of the emerging East Budleigh Neighbourhood Plan.
3. Affordable housing need can be accommodated at Frank's Patch as democratically determined by village residents.
4. Contrary to Strategy 35 of the Local Plan that stipulates that 'exception sites' should have at least 66% affordable housing; there are no commuted sums allowed.
5. Inappropriate development in the AONB with no exceptional circumstances or public interest demonstrated to justify major development in the absence of specific provision in the neighbourhood plan.
6. Detrimental visual impact upon AONB; the open character of the site plays an important role and is the gateway to East Budleigh on a rising hill; it would be replaced by urban sprawl; the site is noted in the draft East Devon Villages Plan as being particularly sensitive due to its location in the AONB.
7. Unsustainable access to the village centre; the site lies on the opposite side of the B3178 from the village centre with its school, shop, church and pubs and would necessitate crossing a notorious accident blackspot; children would, for their safety, be transported by car creating an unsustainable increase in traffic.
8. Comparisons with the Newton Poppleford Badger Close application which was refused on sustainability grounds for reasons of employment and pedestrian access to the village.
9. Unjustified use of Grade 1 agricultural land contrary to paragraph 112 of the NPPF.
10. Exacerbation of existing flooding problems experienced by properties below the site due to increase in water run-off; Frogmore Road is frequently closed or affected by flooding and site is on the edge of the flood plain of the Budleigh Brook.
11. Effect of light pollution on the many bat colonies in the adjacent hedgerows and there will be conflict between the security of inhabitants and bats which will be diverted from their pathways by lights.
12. High level of off-road parking provision provided; will this enable a further application for more houses in the future?

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
14/2959/MOUT	Outline application for the construction of 18 dwellings (including 66 % affordable housing) with all matters reserved other than access.	Withdrawn	10.05.2016

## **POLICIES**

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

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

Strategy 35 (Exception Mixed market and Affordable Housing at Villages, Small Towns and Outside Built-up Area Boundaries)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN13 (Development on High Quality Agricultural Land)

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

EN21 (River and Coastal Flooding)

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)

EN14 (Control of Pollution)

## **ANALYSIS**

### Site Location and Description

The site, which extends to 0.4 hectares in area, mainly comprises the south eastern portion of a field currently laid to grass that is located on the eastern side of Oak Hill (B3178) and to the east of a ribbon of adjacent residential properties that front onto Frogmore Road to the south. It lies beyond part of the south eastern edge of the built-up area of East Budleigh.

This field occupies a location on a rise in the local landform that slopes downhill from north to south at the top of which is Syon House. The site itself, which occupies the lowest part of the field, has a frontage onto Frogmore Road that is defined by a length of flint wall.

The site area also includes the western portion of an adjacent field to the east, which has a gated access off Frogmore Road at its south western corner and an elongated narrow strip of land that bisects a further field on the opposite side of Frogmore Road that extends as far south as an existing stream, the Budleigh Brook.

The entire area is within the designated East Devon Area of Outstanding Natural Beauty (AONB). In addition, the part of the site north of Frogmore Road site is part of a larger area of land classified as Grade 1 agricultural land with a section of the strip of land within the site to the south classified Grade 3. The portions of the site to the north of Frogmore Road lie within flood zone 1 although Frogmore Road itself is within flood zone 2 and the strip of land within the field to the south is within both flood zones 2 and 3.

### Proposed Development

The application seeks outline planning permission for a scheme comprising the construction of five dwellings, three of which would be affordable. All detailed matters regarding the appearance, layout and scale of the development and all associated landscaping are reserved for later consideration with only the details of the means of access to the site submitted for formal determination at this stage.

The submission does however include an illustrative master plan that incorporates site layout details. These show the development occupying solely the part of the site within the south eastern portion of the main field with frontages onto both Oak Hill and Frogmore Road.

The scheme itself envisages a short cul de sac arrangement with the five units laid out along both sides in the form of a terrace of three affordable dwellings (comprising a single two bedroom and two three bedroom units) oriented at right angles to Frogmore Road on the western side and a pair of detached four bedroom open market houses. A total of fourteen garaging and parking spaces are also shown with three pairs of spaces, with each pair laid out in tandem, alongside the northern of the three proposed affordable terraced units and two pairs of spaces in front of double garages set out between the two open market dwellings.

Access would be taken from Frogmore Road in an approximately central position within the road frontage, the formation of which would necessitate the breaching of part of the present flint wall.

The portion of the adjacent field to the east that is within the site area would house a geocellular attenuation system, in the form of an attenuation tank, for the discharge of surface water from the development. This would include the laying of a drainage pipe that is intended to pass under Frogmore Road, through the field to the south and connect to the Budleigh Brook.

These drainage provisions have been amended in the light of concerns expressed by Devon County Council's Flood Risk Management Group with regard to the absence of infiltration testing results to support the original strategy of discharging of surface water by means of infiltration blankets and soakaways. Percolation testing has been undertaken subsequently. However, the results showed insufficient soakaway levels and therefore alternative proposals for attenuation have been submitted instead.

The indicative plan also shows this part of the site being set aside for a 'potential orchard'.

The development is proposed in line with the provisions of Strategy 35 (Mixed Market and Affordable Housing outside Built-up Area Boundaries) of the adopted local plan as an 'exception site' scheme. It follows the submission, and subsequent withdrawal, earlier this year of application 14/2959/MOUT, referred to above, relating to a scheme for the construction of eighteen dwellings, including twelve affordable units, on the site which incorporated a far larger part of the main field with the two highway frontages to the north and west of the current site but excluded the part of the present site area within both the field to the east and on the opposite side of Frogmore Road. This application was withdrawn in the light of officer concerns relating to the number of affordable units proposed which it was considered failed to align with the level of the identified local need, including that of the neighbouring parish and town of Budleigh Salterton with which East Budleigh is grouped for the purposes of applying affordable housing policy.

### **Considerations/Assessment**

The following issues that are material to consideration of the proposal are discussed in turn as follows.

#### **Principle of Development**

As a result of the adoption of the new Local Plan, full weight can be given to relevant housing supply policies/strategies that it contains in line with policy as set out in the National Planning Policy Framework (NPPF). This in turn means that full weight can be given to built-up area boundaries for the settlements that are identified in Strategy 27 of the Plan as being sustainable in terms of the range of services and facilities, including access to public transport, that they offer. East Budleigh is one of these settlements.

However, the site is located within open countryside beyond, albeit immediately adjacent to, the edge of the built-up area of the village. Strategy 7 of the Plan limits development in the countryside to that which only accords with a specific policy elsewhere.

As stated above though, the application proposal seeks to fulfil the criteria in Strategy 35 as an 'exception site' mixed affordable and open market housing development. It is therefore necessary to assess the proposal against the key criteria set out within its provisions.

The strategy allows for exception site schemes for 'up to or around' 15 dwellings at villages and outside of the defined built-up area boundaries in locations where ordinarily residential development would not be regarded as being acceptable (i.e. as an exception to the general policies of restraint upon development in such locations) where there is a proven local need demonstrated through an up to date robust housing needs survey. It requires that a minimum of two thirds of the dwellings should be affordable and that sites, where they relate to villages with a built-up area boundary, should abut, be located within close proximity of or be otherwise physically well related to, that boundary within easy walking distance and close to a range of facilities. To be permitted the housing needs evidence will need to show, among other things, that the need in any given locality would not otherwise be met.

In applying the strategy, for affordable housing in rural areas account is taken of the specific need within the parish in which the application site is located.

To this end, in response to the Council's Housing Enabling Officer's original comments in relation to application 14/2959/MOUT highlighting a requirement for a previous housing needs survey from 2008 to be updated with the support of the parish council, the applicants have commissioned their own updated housing needs survey in order to gain an understanding of the current evidenced need to inform and underpin the number of affordable units that are proposed. The methodology employed in conducting the survey and the structured presentation of the findings and assessment has been agreed in consultation with the Housing Enabling Officer. Moreover in the absence of the involvement of any other agency, including the parish council, in the preparation of the survey in this case it is accepted that this represents an appropriate approach to seeking to establish local housing needs.

The housing needs survey for the parish of East Budleigh with Bicton completed in 2008 identified a need for 16 affordable homes (11 rented and 5 intermediate) over 3 years, the principal need being for 2 bedroom properties with a low proportion of 3 bedroom properties.

The applicants' updated housing needs survey report has been prepared without grouping the housing needs of East Budleigh with those of Budleigh Salterton. It therefore only sets out the needs relating to the former and, to this end, identifies a need for only three affordable homes within the next 5 years with only one required currently. It also identifies a 'possible' need for two further properties within this period.

The proposed development of three affordable dwellings within a scheme of five units overall would, at 60%, result in a slight under provision of such housing that would strictly be contrary to the stipulation in Strategy 35 that schemes should provide for a minimum of two thirds (66%) affordable housing on site.

However, in lieu of the shortfall of 6% affordable housing provision, equating to around 0.3 units, the applicants are offering a commuted payment of £9,463. There is therefore a need to consider if this represents a reasonable approach to meeting this shortfall in applying the provisions of Strategy 35. This is considered in further detail below.

In terms of the provisions of Strategy 35, it is thought that the scheme would be in many respects compliant. The proposed scheme would involve the provision of less than fifteen dwellings and, in looking to bring forward three of these as affordable units, would meet the need demonstrated through the submitted housing needs survey which is itself considered to be both up to date and robust having been prepared in accordance with a methodology previously agreed with the Housing Enabling Officer.

Furthermore, the application site itself is very closely related to the built-up area boundary that is being applied in respect of the control of development at East Budleigh through Strategy 27 of the Plan. Although not physically abutting the boundary, it is separated from it only by a modest plot to the immediate west that houses a garage. As such, it is thought that it is sufficiently well related to the built form of the village to comply with this aspect of the strategy.

In terms of the sustainability of the site location, as stated it is well located in relation to the edge of the built-up area of a settlement that is identified through Strategy 27 as itself being sustainable on account of the range of accessible services and facilities, including public transport, to meet the everyday needs of residents that it offers. Indeed, one of the other criteria set out within Strategy 35 requires that these should include four or more of a school, pub, village hall, shop/post office, doctors surgery, place of worship or public transport service. In this case, East Budleigh offers all of these services/facilities apart from a doctor's surgery.

In addition, although located on the very edge of this part of the village, the site is itself within reasonable walking distance of the majority of these services/facilities with the village primary school, village hall and shop within between 600 and 700 metres and the parish church and public house within the centre of the village a short distance further. There is also reasonable provision of footways connecting the site with the village centre along Lower Budleigh, Middle Street and High Street.

Furthermore, there is a public house and repair garage positioned much closer to the site adjacent to the crossroads at the junctions of Frogmore Road and Lower Budleigh with the B3178/Oak Hill. This road itself is also part of a route used by regular bus services connecting the village with Budleigh Salterton, Exmouth, Sidmouth and Exeter.

It is therefore considered that the site occupies a sufficiently sustainable location in terms of its ready accessibility to this range of services and facilities as to be an acceptable site, in principle, to accommodate some housing development.

However, it is also necessary to assess the scheme in the context of other material issues, not least the emerging East Budleigh with Bicton Neighbourhood Plan and the degree of weight that it is considered can be apportioned to its provisions in the planning balance in this case.

This document has reached the stage of formal submission to the District Council having been approved by the parish council earlier this year. The Submission Neighbourhood Plan has since been through a further period of consultation which ended in October and is currently at the stage where it is subject to independent examination by a Government Inspector. At the time of writing this report there is not expected to be any hearing sessions into the Neighbourhood Plan and as such the final report from the Inspector could be received at any time. Subject to the Inspectors report, the plan could then be subject to a local referendum in early 2017.

The application site does not feature in the Neighbourhood Plan being unallocated and outside of the Built-up Area Boundary. However, Policy D2 (Mixed open market and exception sites) of the Neighbourhood Plan allocates another site that is outside of the built-up area boundary as an 'exception' site where proposals for residential development will be supported. This is at Frank's Patch in Middle Street, close to the village centre, and is identified as a site for up to three dwellings of which two should be affordable. The plan recognises the Housing Needs Survey produced by the applicant and the need for 3 affordable dwellings.

The application site at Frogmore Road was identified as a possible site for development during the preparation of the District Council's Strategic Housing Land Availability Assessment (SHLAA) as part of the local plan preparation process. However, public consultation exercises undertaken by the parish council in both 2012 and 2015 to determine local views on the preferred sites for accommodating housing development showed a preference for allocation of the Frank's Patch site over the application site and other sites elsewhere.

Policy D2 of the neighbourhood plan also sets out criteria for development of other rural exception sites aside from that identified at Frank's Patch, most notably requiring that affordable housing be provided on site and precluding commuted payments.

Although the degree of weight that can be given to the emerging neighbourhood plan would not yet be as great as that that can be attached to the adopted local plan strategies/policies given its emerging status and outstanding objections, it has gone some way through the statutory processes towards adoption and can therefore be given some weight in the balance of considerations as representing an expression of local opinion in this case.

However, it is not thought that in itself it can be afforded sufficient weight to justify opposing the principle of the proposed development in this case if it is otherwise deemed to be acceptable having regard to the other material considerations set out

above and below. Whilst having reached the examination stage, the plan remains subject to a number of statutory procedures before it is adopted and can be given full weight in the consideration of development proposals. It should also be noted that the neighbourhood plan allocation is for 2 affordable units when there is an identified need for 3 (and possibly 5), with the application proposal complying with the criteria to Policy D2 with the exception of it providing a commuted payment to cover the 0.3 of a unit. With regard to this, the applicant has submitted a formal objection to the neighbourhood plan inspector (along with other comments and concerns) on the basis that part commuted sum should be acceptable where the 66% does not relate to a full unit of affordable housing and it is unreasonable to round up.

In these circumstances, it is not considered that the offer of a financial contribution in lieu of the required 6% provision to make the scheme compliant with Strategy 35 of the Local Plan represents an unreasonable approach. Unlike cases elsewhere where the shortfall in provision has not been made up owing to demonstrable viability considerations, such as most recently with regard to a scheme for mixed open market and affordable housing at a site adjacent to the Fountain Head pub in Branscombe that was reported to Committee in October, this proposal does seek to provide a commuted payment in place of part provision which equates in this case to only 0.3 of a dwelling. Being mindful of the extremely limited nature of the shortfall in this case, together with what is perceived would be an unreasonable requirement to insist upon the provision of a fourth affordable unit (i.e. at a rate of 80% provision which would also in any event exceed the identified housing need for only three units for the village) and the social/community benefits to be gained from permitting a scheme that meets this need, it is not considered that the failure to provide the minimum 66% affordable housing provision required by Strategy 35 (or contrary to Policy D2 of the neighbourhood plan) should itself be regarded as weighing strongly against the scheme if having regard to the overall planning balance it can be otherwise be thought to be acceptable.

Whilst officers recognise the work that has gone into producing the neighbourhood plan and getting it to its current stage, and recognise the support locally for the Franks Patch site to provide affordable housing in preference to the application site, on balance, refusal of the application on the basis of a conflict with the neighbourhood plan in advance of the Inspectors Report and referendum would be hard to justify, particularly as there is a need for at least 3 affordable units and the neighbourhood plan only identifies a site for 2 affordable units (3 in total).

#### Impact upon AONB

As stated, the site is located within the designated AONB in relation to which the NPPF, at paragraph 115, confers the highest status of protection in relation to landscape and scenic beauty and places great weight upon the conservation of these in the control of development. Paragraph 116 states that permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest and that consideration of such applications should include an assessment of the need for the development.

Whilst 'major developments' is not expressly defined in the NPPF, it is thought in the context of the scale of East Budleigh village and the social benefits in terms of the

provision of affordable housing to meet local need that it seeks to promote that the application proposal does not amount to a 'major' development.

It does however remain necessary to consider the likely impact of the proposed development upon the AONB. In this regard, the submission is accompanied by a visual appraisal. Its principal conclusions are that the proposal amounts to a small scale development which will have limited visibility within the wider landscape with views largely confined to areas within the built-up area boundary adjacent to the site. Whilst it would provide an extension to the built form along Frogmore Road, from which it would be clearly visible immediately alongside the site, it would occupy the lowest part of the field that rises towards Syon House to the north and proposed landscaping, through hedgerow and tree planting, would help to assimilate the development within the surrounding landscape and soften the western edge of the site from the main views that would be available of it from the B3178.

In addition, the presence of trees and hedges within the largely flat landscape beyond Frogmore Road to the east would result in only partial filtered views from public footpaths that cross this area with the development likely to be seen against the background of the existing development to the west of the site along the northern side of Frogmore Road. Indeed, it would be at a very similar level to this and would not appear potentially visually intrusive when compared with any development of the higher parts of the field to the north and west.

In the circumstances therefore, it is not considered that the level of impact upon the rural landscape character or natural or scenic beauty of the AONB would be materially harmful to the extent that objection to the proposed development on landscape impact grounds alone could be strongly justified when assessed alongside the other relevant issues in the planning balance.

#### Loss of Agricultural Land

It is clear that the development would result in the loss of an area of Grade 1 agricultural land from production. This amounts to the best and most versatile land (BMV) which, through Local Plan policy EN13 and paragraph 112 of the NPPF, is recognised as being of economic and other benefits and therefore afforded a degree of protection.

However the policy does allow, exceptionally, for development if there is an overriding need for it and either sufficient land of a lower grade is unavailable or has an environmental value that outweighs the agricultural considerations or the benefits of the development justify the loss of high quality land. It also states that if BMV needs to be developed and there is a choice between sites in different grades, land of the lowest grade available must be used.

In this case, the area of land proposed for development is reasonably modest and the scheme would fulfil an identified and evidenced need for affordable housing within East Budleigh. There is currently no other such scheme, appropriately evidenced, before the Council for consideration that would involve the development of land of a lower grade. Although a separate, detailed application for three dwellings (ref. 16/2525/FUL) on a site adjacent to The Old Vicarage on the northern side of the village is currently under consideration, this also involves the development of Grade

1 agricultural land and, at least at the time of writing, is not supported by any housing needs evidence. It is not considered therefore that the existence of this application can be given significant weight in assessing the merits of the proposed Frogmore Road proposal.

As such, it is again thought that in the planning balance the impact of the development upon BMV would not be significant when considered against the social benefits of the scheme in providing for affordable housing to meet the identified and evidenced social need.

#### Impact upon Neighbour Amenity

The indicative site layout master plan shows that a separation distance of around 24 metres (min.) could be achieved between the rear of the terrace of three affordable units within the western part of the site and the nearest boundary of the closest residential property to the west, Orchard Cottage and its private rear garden area.

This is considered to be a sufficient distance to ensure that any adverse impact upon the living conditions of the occupiers arising from the development, through overlooking/loss of privacy or through being unduly physically dominating or overbearing as to cause loss of light, aspect or outlook, would be avoided.

As such, and in the absence of any other neighbouring residential properties bordering or close to the site, it is not thought that the development would result in any materially harmful impact upon the amenities enjoyed by adjacent or nearby occupiers.

#### Highways/ Access

No objections are raised to the proposed development by the County Highway Authority (CHA) subject to the 30 m.p.h. speed limit and street lighting in Frogmore Road being extended so as to secure standard visibility splays of 2.4 metres by 43 metres in both directions. This can be covered through the Section 106 Agreement. Although this part of the highway does not have any footways, this is not perceived as being likely to result in a safety hazard to either motorists or pedestrians at this location as both share the road carriageway reasonably successfully at present and general traffic speeds are low.

Additional conditions are also recommended by the CHA to secure the submission of details of the layout and construction of the access along with the provision of the access, parking facilities, loading/unloading areas for commercial vehicles, visibility splays, turning/parking areas and garages, driveways and surface water drainage prior to occupation in accordance with details also to be agreed with the Authority.

In the circumstances, whilst the concerns raised by third party objectors are acknowledged, in the absence of any objection to the proposed development on highway safety grounds from the CHA objection could not reasonably be supported.

#### Drainage

As stated above, the drainage strategy for the scheme has been amended during the course of the application to address issues relating to the inadequacy of the site to

accommodate infiltration as a viable option for the discharge of surface water drainage.

It is therefore proposed that an attenuation tank-based system designed to control and accommodate flows up to and including a 1 in 100 year return period event, with a 40% increase for climate change, be incorporated. Surface water flows from the development would be managed at agreed rates and discharged directly to the Budleigh Brook, thereby reducing the area of greenfield land which drains onto Frogmore Road when compared with the present situation.

Permeable paving, underlain by a suitable attenuation system, would be appropriate for parking areas.

It is not expected that this replication of the current surface water regime would result in any increase in the risk of surface water flooding from the site. It is anticipated however that it will have a positive impact upon both the level and extent of any potential surface water flooding of Frogmore Road.

Whilst the further comments of the D.C.C. Flood Risk Management Group with regard to these revisions to the surface water management strategy are awaited at the time of writing, provided there is an acceptance to the proposed attenuation method as an appropriate means of discharging surface water drainage the submission of details can be secured by means of a condition of any grant of planning permission.

#### Impact on Trees

The submission includes an Arboricultural Impact Assessment report relating to the site. This is necessitated by the presence of a series of visually prominent trees, none of which are the subject of formal protection through a tree preservation order, in the form of a Lime close to the Frogmore Road frontage and Sweet Chestnut, Tree of Heaven and Walnut trees along the boundary between the prospective development and the adjacent field to the east within which the proposed attenuation tank would be laid.

The report categorises each of the trees in line with British Standard 5837 and categorises the Lime and Sweet Chestnut as A2, namely of high quality and value and able to make a substantial contribution to the local landscape for more than 40 years. The Walnut and Tree of Heaven are categorised as B2, i.e. of moderate quality and value and able to make a significant contribution for more than 20 years.

It concludes that the submitted indicative layout would result in two minor adverse arboricultural impacts to the Lime owing to its likely shading effect upon the southern of the two open market dwellings and the likelihood of the surface water drainage connection from the affordable units needing to pass under its roots. It is also anticipated that any fencing along the eastern boundaries of the two open market plots would involve work within the root protection areas (RPA) of the trees. However, the effects of these elements of the work would be minor and manageable and, as such, would be capable of being addressed through detailed specification within a tree protection plan (TPP) and arboricultural method statement (AMS).

It is accepted that the report satisfactorily demonstrates that there is sufficient space available to both achieve the site density indicated on the submitted illustrative site layout plan and retain the trees with adequate space. Minor crown reduction works may be necessary to both the Lime and Walnut trees. No objections are raised to the proposal by the Council's Arboricultural Officers subject to submission of a TPP and AMS.

### Ecology

The submitted application documents also include an ecological assessment report containing the results of a phase 1 habitat survey. Its principal findings are that, whilst a number of bat species have been recorded over the site, the proposed development would not result in a significant loss of bat foraging habitat. In addition, commuting bats are thought likely to be able to continue to fly around the site boundaries, particularly the eastern boundary, which will remain largely as existing.

The report also acknowledges that additional tree planting within the 'potential orchard' area would result in an enhancement of foraging habitats and recommends that a native species hedge be planted around the northern site boundary to provide additional wildlife habitat and a wildlife corridor. It also emphasises the importance of securing a sensitive lighting scheme for the site and recommends that three bat roosts be incorporated into the development in order to also enhance provision for bats.

Two disused badger setts have been recorded on the site and it is recommended that these be checked prior to commencement of any development to assess if this remains the case. In addition, a fingertip search for dormice nests should be undertaken in the event that any hedge removal to accommodate the installation of the proposed drainage outfall is carried out.

### **RECOMMENDATION**

APPROVE subject to the completion of a Section 106 agreement to secure 3no units of affordable housing, payment of an off-site financial contribution of £9,463 towards affordable housing, provision of an extended 30mph speed limit, street lighting and subject to the following planning conditions:

1. Approval of the details of the layout, scale and appearance of the building 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 development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
4. 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.)
5. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.  
(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the adopted East Devon Local Plan 2013 - 2031 and paragraph 141 of the National Planning Policy Framework (2012), that an appropriate record is made of archaeological evidence that may be affected by the development.)
6. No development shall take place until satisfactory details of the means of disposing of surface water drainage from the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These shall be in accordance with the provisions and recommendations for attenuating and managing surface water set out in the Syon House Drainage Strategy and Flood Risk Assessment report (Rev. V3) dated October 2016 prepared by Clarkebond (UK) Ltd. The scheme shall be carried out in accordance with the approved details before any dwelling on the site is occupied.  
(Reason - To avoid flooding during and after development in accordance with the requirements of Policies EN14 - Control of Pollution and EN22 - Surface Run-Off Implications of New Development of the adopted East Devon Local Plan 2013 - 2031.)
7. Prior to commencement of development of any part of the site the Local Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and

6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;

(k) details of wheel washing facilities and obligations;

(l) the proposed route of all construction traffic exceeding 7.5 tonnes;

(m) Details of the amount and location of construction worker parking; and

(n) Photographic evidence of the condition of the adjacent public highway prior to commencement of any work.

(Reason - In order to ensure that the construction phase of the development does not harm the amenity of the nearby neighbours and to mitigate the impact on the wider highway network in accordance with Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan 2013 -2031.)

8. Prior to the commencement of any works on site (including demolition and site clearance or tree works), a tree survey and report to include a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) for the protection of all retained trees, hedges and shrubs on or adjacent to the site shall be submitted to and approved in writing by the Local Planning Authority. The layout and design of the development shall be informed by and take account of the constraints identified in the survey and report. The tree survey and report shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process. The development shall be carried out in accordance with the approved details. Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS. The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Local Planning Authority for approval and final discharge of the condition.

(Reason - To ensure the continued well being of retained trees in the interests of the amenity of the locality, in accordance with policies D1 (Design and Local

Distinctiveness) and D3 (Trees and Development Sites) of the adopted East Devon Local Plan 2013 - 2031.)

9. The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures for protected species set out within the Ecological Assessment Report Addendum report dated October 2016 prepared by Richard Green Ecology Ltd. and in accordance with further details of the specific mitigation measures to be carried out in relation to bats, badgers and dormice that shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.  
(Reason - To ensure that appropriate mitigation measures are approved and incorporated into the development at the earliest opportunity in the interests of the conservation of protected species and in accordance with Policy EN5 - Wildlife Habitats and Features of the adopted East Devon Local Plan 2013 - 2031.)
10. Before any development commences details of final finished floor levels and finished ground levels in relation to a fixed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013-2031.)
11. No part of the development hereby approved shall be brought into its intended use until the:
  - A) access;
  - B) parking facilities;
  - C) commercial vehicle loading/unloading area;
  - D) visibility splays;
  - E) turning area;
  - F) parking space and garage/hardstanding;
  - G) access drive; and
  - H) access drainagehave been provided and maintained in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. These shall thereafter be retained for these purposes at all times.  
(Reason - To ensure that adequate facilities are available for the traffic attracted to the site and to comply with Policy TC7 - Adequacy of Road Network and Site Access of the adopted East Devon Local Plan 2013 - 2031.)
12. In accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.  
(Reason - In the interests of public safety and to prevent damage to the highway and to comply with Policy TC7 - Adequacy of Road Network and Site Access 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.

### Plans relating to this application:

13707-LO1-01D	Location Plan	24.10.16
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### List of Background Papers

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

**Ward** Exmouth Littleham

**Reference** 16/0835/FUL

**Applicant** Mr B Griffiths

**Location** 12 Stevenstone Road Exmouth EX8 2EP

**Proposal** Construction of detached dwelling



**RECOMMENDATION: Refusal**



		<b>Committee Date: 6<sup>th</sup> December 2016</b>
<b>Exmouth Littleham (EXMOUTH)</b>	<b>16/0835/FUL</b>	<b>Target Date: 29.08.2016</b>
<b>Applicant:</b>	<b>Mr B Griffiths</b>	
<b>Location:</b>	<b>12 Stevenstone Road Exmouth</b>	
<b>Proposal:</b>	<b>Construction of detached dwelling</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

**This application is before Members because the officer recommendation differs from the view of the Ward Member.**

**The application seeks planning permission for the construction of a detached two storey, 4 bedroom dwelling to the rear of a dwelling forming 12 Stevenstone Road in the 'Avenues' area of Exmouth.**

**Whilst the proposal is located within the Built-up Area Boundary for Exmouth, in a sustainable location where the principle of new residential development is acceptable, it is considered that the proposal would have a harmful effect upon the character and appearance of the site and surrounding area, taking into account the pattern of existing development, relationship with surrounding properties and the size of the proposed building relative to the plot.**

**The application is therefore considered to be contrary to the provisions of Strategy 6 (Development within Built-up Area Boundaries) and Policy D1 (Design and Local Distinctiveness) of the Local Plan which seeks to ensure proposals respect the key characteristics and special qualities of the area in which the development is proposed and protects the amenity of residents. The application is therefore recommended for refusal on this basis.**

## **CONSULTATIONS**

### **Local Consultations**

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

No objection but a request for EDDC's Tree Officer to give thought to a TPO for T12 Copper Beech. The removal of trees on the drive along the garage parking area by Pendeen court should be replanted for privacy screening reasons.

Further comments 08.08.16:

No Objection

#### Exmouth Littleham - Cllr M Williamson

I apologise for the late submission of this Ward Comment which is due to the unexpected volume of Ward work including the number of planning applications. As you know Littleham Ward has experienced the death of a colleague followed by a by-election and then the Summer period when many residents have been away.

However, on behalf of my Ward colleagues I can report that we support the view of the Town Council on 25 July that this application should be Approved. The plot is sufficiently large to accommodate a new dwelling and subject to tree protection and an assessment by Environmental Health of possible traffic noise, fumes etc. which have been raised by some residents of adjacent properties we have no objection to this build. In the event of any difference of view we would wish to discuss this through the Delegation to Chairman process.

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments both for and against.

#### **Technical Consultations**

County Highway Authority  
Highways Standing Advice

#### EDDC Trees

Given the quality of the trees on site the proposed scheme is considered acceptable. However the loss of so many trees in an area characterised by its tree canopy cover means that any planning approval should be subject to a condition requiring the planting of new trees to compensate for the loss of amenity and maintain the continuity of tree cover in the future.

#### Other Representations

4 letters of representation have been received, one objection, one in support and two neutral.

The letter of objection is from a resident of the block of flats to the South West, concerns include invasion of privacy, loss of light and loss of property value.

The letter of support considers that the house has been suitably designed and will not impact on the community.

The neutral letters raise concerns that the position of the garage (now removed) will impact on the boundary and will be too close to their property.

#### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 38 (Sustainable Design and Construction)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

Design Statement The Avenues Exmouth April 2005

National Planning Policy

National Planning Policy Framework

## **ANALYSIS**

### Site Description

Stevenstone Road is a residential area in the 'Avenues' area of Exmouth, characterised by large dwellings dating from the 1930s, situated on large plots. Number 12 is one such dwelling, comprising a large two storey detached dwelling, outbuildings, and considerable gardens. The overall size of the plot is some 48 metres by 30 metres. There is a single access from Stevenstone Road to an existing garage and the site benefits from significant tree coverage,

### Proposal

It is proposed to retain the existing dwelling, but remove the garage to the front and fell a number of trees, in order to accommodate an access to the rear of the property. At the rear it is proposed to construct a two storey dwelling measuring approximately 13m by 9m. It would benefit from a dual pitched roof and be roughly rectangular in shape, with a parking and turning area at the end of the drive to accommodate two vehicles. The dwelling would be constructed of white render, hardwood doors, and grey roof tiles.

### Analysis

Principle and impact upon the character of the area:

The site lies within the built up area boundary for Exmouth. The principle of development is established as the proposed dwelling would be situated within a sustainable location within reasonable proximity to all facilities and services.

Therefore the main issues concerning the proposal are the impact on the character of the area, on the street scene and on the amenity of adjacent occupiers.

Due to the position, height of the new dwelling and its location to the rear of the plot behind number 12, it is not considered that the proposal will be highly prominent within the street scene, although the separate access will be a noticeable change and indicate the presence of a dwelling at the rear of number 12.

The new dwelling would be situated behind the existing dwelling and therefore would be considered to be 'backland development'. There are other examples of backland development within the Avenues but these are generally of longstanding origin and are predominantly on land near the corners of the roads or on plots that are larger. There are no such properties in Stevenstone Road. Furthermore, the Avenues design statement recommends that the character of the area is partly derived from large dwellings in large plots and states that development should not cover more than 25% of the plot in order to retain the spaciousness of the site; this figure would be exceeded with this proposal.

A 2-storey dwelling in this position would also be highly noticeable to the adjoining residents significantly changing the character of the area from their properties and changing their outlook, particularly given the two-storey nature of the development and loss of trees (see below). It is therefore considered that the proposal would not be in keeping with the pattern of development in the locality and could be considered to be over development of the site to the detriment of the character of the area and amenity of surrounding residents.

Impact upon amenity:

In terms of amenity, the dwelling is proposed with its main windows in the end elevations.

This results in two first floor windows serving a bedroom and bathroom directly facing number 12 at a distance of 3m to the boundary and 11m to the rear of number 12. Whilst the bathroom window could be conditioned to be obscure glazed and fixed shut, this would not be appropriate to the bedroom window and as such the proposal would result in an unacceptable level of overlooking to the garden of number 12 and to its rear elevation.

The rear elevation facing flats 1-12 The Firs (7 Sarlswold Road) is proposed with a single secondary bedroom window at first floor that could be conditioned to be obscure glazed and fixed shut to protect the amenity of residents to the rear.

The front elevation (south-east facing) is proposed with a bathroom and bedroom window facing the garden of 27 Cranford Avenue. Whilst the bathroom window could be conditioned to be obscure glazed and fixed shut, it would not be reasonable to impose such a condition on the bedroom. At a distance of approximately 8m to the boundary, this relationship is considered to be tight but just about acceptable given the retention of boundary planting and the window not being able to directly overlook the main amenity areas to the adjoining site.

The rear elevation (north-west facing) has the main windows and outlook for the property. At first floor there are two main bedroom windows, an en-suite window and large balcony serving both bedrooms. These windows and balcony are between 8

and 9.5m from the boundary with number 10 Stevenstone Road and approximately 22m to its rear elevation. Whilst there would be some boundary treatment retained, it is considered that that this represents a poor relationship with a likelihood of a loss of privacy, or at least a perceived loss of privacy, to the occupiers of numbers 10 and 12 Stevenstone Road. The balcony being only approximately 1m from the rear boundary with number 12.

Alongside the issues of overlooking, the adjoining residents will experience a change in the character of the area through the loss of trees and introduction of a two-storey dwelling fairly close to its boundaries.

Finally, the building is proposed only 1m from the boundary with number 12 and only 4m from the rear boundary with 1-12 The Firs. This leaves a very small amenity area and size of plot much smaller than that forming the character of the area. The outlook for the occupiers of the proposed dwelling will therefore be restricted with minimal usable garden areas given the retention of existing boundary treatment. This would be harmful to the amenity of future occupiers.

### Trees

A survey has been submitted with the application detailing the existing trees and any recommendations for their retention. Whilst the trees are not subject to a TPO there are many category 'C' trees (10) and category 'B' trees (2), which it is proposed to remove. The Category B trees are a Beech tree which is over 40 years old, and a younger Maple tree.

However, the Tree Officer has not raised an objection to the loss of the trees subject to replacement planting. Whilst a condition could be placed on any permission to ensure replacement tree planting, the site coverage of the access and dwelling leave little opportunity for replacement tree planting other than to the boundaries that would eventually result in significant tree cover and shading to the garden to the proposed dwelling.

Whilst a refusal of permission on the basis of the loss of the trees could not be justified given their backland position and relatively small size, the lack of space to provide replacement planting also weighs against the proposal and adds support to the concern that the proposal is out of character with the area with subsequent detrimental impact upon the amenity of surrounding residents representing over-development of the site.

### Conclusion

Whilst the principle of development is acceptable within this location, the proposal is recommended for refusal on the basis of the development representing over-development of the site out of character with the area and with a resultant detrimental impact upon the amenity of surrounding residents.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposal would create a form of backland development that would be alien to, and out of character with, the general pattern and layout of houses and plots along the road. The proposal would result in a cramped form of development, with the built form encroaching into the existing garden of the host property, with a consequential reduction in the spacious nature of the existing residential development. As a consequence the development would fail to respect the special verdant and largely unspoilt visual qualities and key characteristics of the local area along Stevenstone Road. In addition, the proposal will result in a detrimental loss of amenity and overlooking to surrounding residents by virtue of the scale of the building and its close relationship to the site boundaries and surrounding buildings. As such the proposal would be contrary to the provisions of Strategy 6 (Development Within Built-up Area Boundaries) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031, and the advice and guidance contained in the both the Supplementary Planning Guidance - Design Statement for The Avenues, Exmouth and the National Planning Policy Framework relating to the inappropriate development of residential gardens, where such development would cause harm to the local area and amenity of adjoining residents.

### 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.

### Plans relating to this application:

7324-02 REV B	Proposed Combined Plans	25.08.16
7324-03 REV B	Proposed Site Plan	25.08.16

### List of Background Papers

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

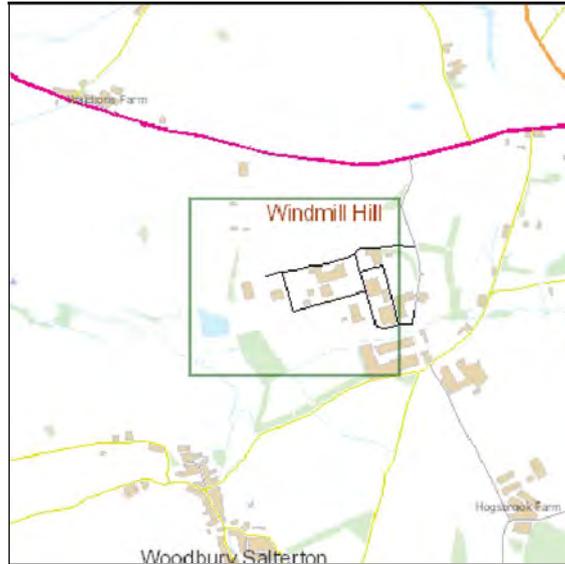
**Ward** Raleigh

**Reference** 16/1212/FUL

**Applicant** Mr John Bentley

**Location** Compound 60 Greendale Business Park Woodbury Salterton Exeter EX5 1EW

**Proposal** Construction of office and welfare building and compound depot for commercial vehicles, storage of bin containers, fueling bay, wash bay, outside storage, storage containers and palisade fencing.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 6<sup>th</sup> December 2016</b>
	<b>16/1212/FUL</b>	<b>Target Date: 25.08.2016</b>
<b>Applicant:</b>	<b>Mr John Bentley</b>	
<b>Location:</b>	<b>Compound 60 Greendale Business Park</b>	
<b>Proposal:</b>	<b>Construction of office and welfare building and compound depot for commercial vehicles, storage of bin containers, fueling bay, wash bay, outside storage, storage containers and palisade fencing.</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation differs from the view of the Ward Member.**

**The site refers to compound 60 located on Greendale Business Park. In 2015 application 15/1783/MRES was approved for a building compound for tools equipment and plant hire, the opening hours proposed were 7.30am to 5pm Monday to Friday (occasionally Saturday 8am to 12 pm). It was indicated that it would provide for 6 new jobs.**

**It is now proposed that the site is used for the storage of waste and recycle vehicles by Viridor Waste. Drivers and operators of the vehicles would arrive and pick up the vehicle and leave for specified collection routes. The initially proposed time for pick up of vehicles was 4am. The applicants have since amended this to either 4.30am or 5.30am. It would again require office and welfare buildings and compound depot, wash bay, outside storage, storage containers and palisade fencing.**

**Given the context of the site it is not considered that there are any objections in visual or usage terms. The main issue regards the starting time on site. A start time of 4am was objected to by the Environmental Health Officer given the proximity of residents in the surrounding area. The applicants have supplied justification for the start time, stating that a later start time is likely to have greater impact on the road networks, particularly town centres, and there is a need to be at identified sites at particular times.**

**The applicants have also contended that there are other buildings on the business park which have 24 hour operating times. These include Royal Mail,**

**OSS group, Fedex, DHL and Interlink express. Whilst a search of planning history shows that some of the units do not appear to be time restricted these are scattered all over the park, and the majority are on the older part of the site, rather than the previously consented business park expansion. A recent appeal against a refusal by Devon County Council to restrict hours on another nearby site to 7am was upheld with the Inspector allowing a 5am start.**

**In light of the case put forward by the applicant, Environmental Health have removed their objection but stated that they would not accept any time earlier than 5.30am. They have further advised that if there is noise and disturbance, this can be controlled through their own legislation. Given this it is considered that a refusal of permission could not be justified.**

## **CONSULTATIONS**

### **Local Consultations**

#### Raleigh - Cllr G Jung

I have viewed the documentation provided by the applicant for Unit 60 Viridor at Greendale Business Park application 16/1212/FUL.

I have received a number of emails and calls regarding this application. I also note the concerns of the Residents Association and Residents and the Parish Council who have responded to this application. I support their views regarding the proposed hours of working.

The location of the Greendale Business Park Extension has been the subject a number of Planning Appeals regarding the operational hours, due to close proximity of the residential properties of the village of Woodbury Salterton. All applications for the extension of operational hours have been rejected by planning inspectors in the past, and I see no reason why this application should benefit from operational hours of 4am to the detriment of local residents.

If this application is recommended for Approval without a restriction to operational hours, I would like this application to be referred to the DMC committee.

"Without the prior written agreement of the Local Authority no operations shall take place on the site on a Sunday or a bank holiday Monday or outside the following hours 7.00-1800 on Monday to Friday and 7.30-1300 hours on a Saturday during a week in which the Monday is a bank holiday. The reason being "in order to protect the amenity of the area"

This condition would therefore be the same as the Suez (SITA) operating hours at the same facility.

I therefore cannot support this Application at present with the proposed early starts and all day workings on Saturdays and no reference to no workings on Sundays and Bank/Public Holidays.

I will reserve my final views on the application until I am in full possession of all the relevant arguments for and against.

### Parish Council

Not supported in line with the original objection. At that time the hours of working were considered unacceptable.

The standard operating times for Greendale Business Park should apply:

Without the prior written agreement of the Local Authority no operations shall take place on the site on a Sunday or a bank holiday Monday or outside the following hours 7.00-1800 on Monday to Friday and 7.30-1300 hours on a Saturday during a week in which the Monday is a bank holiday. The reason being "in order to protect the amenity of the area"

### Technical Consultations

#### Contaminated Land Officer

I have considered the application for this site which is located on a completed landfill site, as the rest of this industrial area. No significant intrusion into the landfill is proposed and I do not anticipate any concerns in relation to this proposal providing that a fully concreted yard area is provided incorporating surface water drainage to a proper outfall (as proposed).

#### Environment Agency

##### Environment Agency Position

We have no objection to this application for a change of use.

Further comments 4/10/16:

Thank you for your consultation dated 28 September 2016 notifying us of the receipt of further information in support of the above application.

##### Environment Agency Position

We have nothing to add to our response dated 22 June 2016.

#### Environmental Health

1) I have considered this application and have real concerns regarding the proposed hours of work 0400hrs to 1800hrs Monday to Saturday, and cannot support this statement as The design and access statements states under 1.0 Site Assessment that the site will house 60 vehicles - 37 cars and 30 lorries of different descriptions. The movement of these lorries before 0600hrs would cause noise disturbance to the residents in close proximity.

2) The supporting statement details that Exeter City Centre has traffic order zones which supports the need for these working hours. Environmental Health would like documented evidence of the Exeter route and their traffic zones before I can consider this proposal.

3) The lighting detail from 15/1783/MRES as quoted in 3.0 Security & Lighting The design and access statements is NOT acceptable for this site and Environmental Health have previously received complaints of light pollution from this site and consequently recommend their removal and replacement to a suitable height and brightness. Therefore I cannot support this statement. The lighting statement submitted by Fitzgerald is a general calculated document and states that it is not cite specific and no risk assessment has been carried out. Therefore I cannot consider this document as part of this application.

Should any permission be granted on the application then Environmental Health would only recommend Back Eye reversing lights and No reversing or white noise beepers to be used on site at any time and no lighting except ground level security lighting before 0600hrs on any day.

However in the light of the above and lack of detail from 2) and 3) I recommend refusal.

Further comments 13.10.16:

I have considered all the reasons given and on this occasion only I am incline to agree with a 0530hrs start but no earlier.

Should this pose any problems in the future of causing noise nuisance, then I shall investigate any complaints received under our own legislation and appropriate actions taken. However I trust that future action will not be necessary.

#### County Highway Authority

The Local Highway Authority has no objection to this application. The required infrastructure is in place to support the application.

#### Other Representations

Seven letters of objection have been received raising concerns with:

- Previous applications to allow work to begin before 7am have been refused.
- Should be based away from residential area
- Greatly increased number of vehicles using the site and the start time of 4am.
- What was a country setting has been turned into living in the middle of an industrial area.
- Will cause significant disturbance
- Previous applications to start before 7am at Greendale have been refused.
- Any vehicles based on this site or operating on the site should be fitted with white noise reversing alarms to avoid disturbance to local residents. Reversing alarms cause significant disturbance in rural areas.
- The buildings must be coloured dark green in line with the outline planning conditions for the extension of the business park
- Any intruder alarms fitted to this site should be fitted with silent alarms linked to the 24 hour security office at Greendale.
- Lighting should be designed so as to minimise light pollution

- Planning conditions at this Business park have always stipulated that operating hours should be 7.30am to 18.00 Mon - Fri and 7.30am to 13.00 on Sat to protect the environment for local residents and there should not be any variation on this important point.
- Unsociable hours
- Will open the gates to others to early mornings for others.
- There is no other building between this yard and the village.
- The noise of 23 HGV vehicles starting up at 04.00 on a winters morning and the engines left to run until the ice is cleared from them would be unacceptable.
- There would be a significant increase in vehicle movements
- Increase from 4 to 22 in HGVs movements is significant
- A transport Assessment is required
- Previous planning applications 07/2341/05 07/00501/2006 were refused for being outside of the boundary and adverse visual impact

## **POLICIES**

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

D1 (Design and Local Distinctiveness)

Strategy 7 (Development in the Countryside)

TC7 (Adequacy of Road Network and Site Access)

EN14 (Control of Pollution)

### Site Location and Description

The site is located centrally but to the west of Greendale Business Park. It is to the north east of Woodbury Salterton and accessed from the A3052. The site is rectangular in shape and sits amongst a number of other compounds and units within the business Park. Woodbury Salterton is located to the south and south west of the site.

## **ANALYSIS**

### Relevant Planning History

In 2015 application 15/1783/MRES was approved for a building compound for tools equipment and plant hire, fueling bays, wash bays, outside storage, offices and storage buildings, car parking and palisade fence (B8 warehouse and distribution use)

It was proposed that the site would hold fuelling bays, wash bays, storage areas, staff parking together with offices, out stores and storage buildings. The open hours proposed are 7.30am to 5pm Monday to Friday (occasionally Saturday 8am to 12pm). It was indicated that it would provide for 6 new jobs.

This unit would have been used for Speedy Asset Services. This is a provider of equipment and associated services to construction, infrastructure, industrial and related industries. It would have served as a hire depot and would be up to 4 HGV vehicles in total predominantly serving Devon and Cornwall and a limited amount of Somerset and Dorset.

## Proposal

It is no longer proposed that Speedy Services would use the site. It is proposed that a new office and welfare building is constructed and a compound for vehicle parking and storage for use in association with Viridor Waste Management Ltd. It is a provider of waste management, recycling and energy recovery. The existing compound would be changed to a transport depot with associated office accommodation to include welfare facilities, car parking, parking for commercial vehicles and storage of bin containers. The site is not intended for any waste transfer or waste storage purposes.

It is proposed that there would be up to 60 vehicles in total consisting of:

- 8no. 26t trade refuse collection vehicles
- 1 no 15t trade refuse collection vehicles
- 1 no 32t trade waste REL
- 1 no 7.5 tail lift
- 1 no 3.5t tail lift
- 4 no 32t roll on roll off collection vehicles
- 1 no roll on roll off trailer
- 37 cars
- Covered cycle storage

The original proposed operating hours were 4am - 6pm Monday to Saturday with the office and welfare building open 7am to 6pm Monday to Saturday.

The applicants have since proposed revised hours of operating from either 4.30am or 05.30am.

Within the yard would be container storage measuring 6m x 2.5m and welfare office measuring 9.5m x approximately 18m and 6m in height. The building would have olive green walls. A new 5m high by 15m long splash screen would be provided to the existing wash bay and would be green in colour.

## Visual Appearance

The building proposed is considered appropriate in terms of its scale, appearance and position within the site. Given the context of other buildings surrounding this compound it is considered the appearance of the building would relate well to the context of the overall site. Whilst the buildings could be seen from surrounding land it is one amongst many others at Greendale Barton, and its scale and appearance would fit comfortably into the site. It is not considered the proposal would benefit

particularly from any 'landscaping' given the hard surfacing already in place, utilitarian finish of the compound and others adjoining.

It is considered that the proposed olive green of the welfare building is acceptable and the application should be conditioned as such.

The proposed development would not give rise to any significant visual impact upon the character or appearance of the site or the surrounding area in view of the heavily commercialised nature of the locality and, provided that they are only used in conjunction with the operation of the depot, it is not thought that an objection to the proposal could reasonably be substantiated. The area is not the subject of any landscape or other designations that are reflective of any sensitivity in landscape character/quality terms and therefore no landscape harm could be argued.

From the more elevated views of the estate that are available from the access road to the park from the A3052 over Windmill Hill to the north east, the development would be seen as part of a much larger developed area and would not appear unduly intrusive visually. Similarly, although limited glimpses are available of the site from the edge of Woodbury Salterton it is not considered there would be any visual harm.

#### Environmental considerations

The majority of the residential areas of Woodbury Salterton are located to the south of the site and in the interests of neighbouring amenity the hours of use of the compounds have been subject to conditions to protect amenity.

The original proposed operating hours were to commence at 4am. This drew objection from the Environmental Health Officer who stated:

"I have considered this application and have real concerns regarding the proposed hours of work 0400hrs to 1800hrs Monday to Saturday, and cannot support this statement as The design and access statements states under 1.0 Site Assessment that the site will house 60 vehicles - 37 cars and 30 lorries of different descriptions. The movement of these lorries before 0600hrs would cause noise disturbance to the residents in close proximity.

2) The supporting statement details that Exeter City Centre has traffic order zones which supports the need for these working hours. Environmental Health would like documented evidence of the Exeter route and their traffic zones before I can consider this proposal".

In addition, the Woodbury Residents Association has raised a number of concerns relating to the proposal and have cited a number of applications which limited working hours on other units for recycling (SITA) or were refused for being outside of the boundary of Greendale. They have cited that there is available space at Skypark or the intermodal freight facility and referenced a variation of condition in 2009 which conditioned working hours that no collection vehicles used in waste transfer operations shall enter or leave the site on a Sunday or on a bank holiday Monday or any other public holiday or outside the following hours: 7am – 6pm on Monday to

Friday and 7am - 6pm on a Saturday during a week in which there is a bank holiday or other public holiday.

The Residents association have also raised a county matter application from 2014 to extend the working hours on Saturdays and Sundays from 7am and 6pm which was refused on the grounds of working times having an adverse impact on the residents of Woodbury Salterton.

This application involved an adjoining site where dry recyclable waste, mostly from household waste recycling centres (HWRCs) was handled. The waste was unloaded within the building, mainly using transportable skips, sorted, baled and taken away for sale. The application and appeal seek to extend the working hours to enable deliveries to be taken at weekends, with baling operations restricted to Saturday mornings. The appellant company claimed that these extended hours were necessary to enable it to meet its contracts with the Council and to ensure that high recycling rates can be maintained at the HWRCs, which are at their busiest at the weekend.

Whilst refused by Devon County Council in consultation with the LPA, an appeal Inspector allowed extended vehicles visiting the site from 5ams Monday to Saturday. The condition limiting the hours remained on Sundays.

The allowed condition states that:

“The site shall only be open for the receipt and processing of waste between 07.00 to 18.00 hours Monday to Friday and 07.00 to 13.00 hours on Saturday, for the receipt of waste between 13.00 to 18.00 hours on Saturday, and open to vehicles entering or leaving the site only between 05.00 to 18.00 hours Monday to Saturday.

The applicants have contended that there are other buildings on the business park which have 24 hour operating times. These include Royal Mail, OSS Group, Fedex, DHL and Interlink express. Whilst a search of planning history shows that some of the units do not appear to be time restricted these are scattered all over the park, and the majority are on the older part of the site, rather than the previously consented business park expansion to the west. It is also not clear whether they involve the number and type of vehicles referred to in this application.

The applicants were asked for further justification in this regard.

They have stated that:

“We work with more than 150 Local Authorities making the most out of waste by delivering advanced recycling, composting, Household Waste Recycling Centre (HWRC) management, Energy from Waste (EfW) treatment, waste transfer operations and landfill disposal services.

We also provide recycling and waste collection, treatment and disposal services to thousands of private sector customers across the UK, from large corporates to the smallest individual businesses. We pride ourselves on delivering the highest quality service a wide variety of customers.

Our new Exeter Logistics Unit at Greendale Barton will provide resource collection services to local authorities, educational and healthcare establishments, and private sector customers across Devon encompassing East Devon, West Devon, Mid Devon, Torbay, Teignbridge, Plymouth, South Hams, and Exeter local authority areas. These customers will be serviced by a fleet of 17 large goods vehicles and 25 staff.

In order to keep pricing to customers at a competitive rate and to ensure efficient routing our collection fleet is scheduled to commence operations from 04:00 Monday to Friday, and a minimal amount of vehicles (usually only 1) on a Saturday. This will ensure continuity of service, which has been established over the last 15 years.

There are a number of operational reasons underpinning our scheduled start times.

#### 1. Educational Establishments

We service a large number of schools or other educational establishments in Devon. The majority of these require the servicing of recycling or waste containers prior to students arriving for the day. Effectively we would not be able to access or we increase the risk of an incident should we not be able to arrive at the establishments until later in the day.

#### 2. Local Authority customers

We currently provide a food waste haulage service to Teignbridge District Council which requires the transport of 2 or 3 loads of food waste to be delivered to Walpole Anaerobic Digestion plant (Pawlett, Bridgwater TA6 4TF) every weekday. In order to meet the needs of the local authority we require to access and collect the first load to arrive at Walpole at the opening time of 0730 so the 2nd load can be collected and transported back up to Walpole before the closing of the plant.

#### 3. City and Town Centres

Having undertaken more detailed investigations into the restrictions in the neighbouring City and Town Centres, we have found that whilst the restrictions are not prohibitive before 9am, if our collection fleet has to access these locations at a later time in the morning it is likely to lead to significant delays and hold-ups to local/commuter traffic due to the fact that in carrying out collections the vehicles will need to stop on main traffic routes. We currently design our routes efficiently to ensure we are out of these areas prior to peak traffic movements between 8am and 9am.

#### 4. Travelling distances

Our new Greendale operation will cover a significant distance across Devon and also into Somerset. The further reaches of the boundaries include Brixham (1hr travelling), Okehampton (1hr travelling), Bridgwater (2hrs travelling), Plymouth (1hr travelling), and the South Hams (1hr travelling).

#### 5. Peak traffic periods

The routing of the fleet is planned around a) being out of main routes affected by morning peak traffic flow locations, and b) not being on route during afternoon peak traffic flow locations for educational establishment finish times or the 1630-1800. Being on route during these times would affect the continuity our operations both

from driver hours, and financial perspective, and also increase the delay of traffic where stops on main routes are required.

#### 6. Operator's Licence

The new site was recently granted an unrestricted transport operator's licence by the Traffic Commissioners office (part of the Driver and Vehicle Standards Agency). This licence gives the site authorisation for transport related operations for large goods vehicles. The operator's licence application process includes advertising the new site in local media to gain any objections to the operating licence. No objections were received and the licence has been granted without any operating hours restrictions.

However, having reviewed our operations we could accommodate a limitation on vehicles leaving the site before 0530am is that is considered appropriate.”

The EHO has said that given all of the reasons put forward that on this occasion ONLY that they are inclined to agree to the 5.30am starts but no earlier. They have said that should this pose any problems in the future of causing noise pollution that they will investigate any complaints under their own legislation with appropriate actions taken.

Given the reasons set out and the lack of objection from the EHO it is considered that the application is acceptable in this regard subject to a 5.30am start.

#### Lighting

A lighting scheme has been provided with the application and it is stated within the application that the lighting is to remain unchanged from that previously approved under planning permission 15/1783/MRES. The lights have been installed and previously been operating.

However, it is considered by Officers that there was a 'notwithstanding' condition attached to the previous consent requiring the submission of lighting details because the submitted lighting details at the time did not include design of the light fittings, height of the lighting, direction of lighting all needed to be shown on a plan which could be easily read.

Lighting details need to comply with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used should not have been capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused.

The lighting that has been installed has been the cause of complaints due to light pollution. The EHO has previously advised that if any further light pollution complaints are raised from this site that she will serve an abatement notice under the Environmental Protection Act 1990 section 79 (1) (fb) for causing a statutory nuisance or a 'likely to occur notice' under the same legislation, which in practice means that if the lights are turned on they have breached the notice and would be liable for legal action.

Given this, it is considered that the provision of lighting is acceptable providing that an appropriate lighting scheme is submitted via a condition.

#### Vehicle Alarms

The Environmental Health Officer has stated that white noise or reversing alarms would not be acceptable in this instance. The vehicles should only be fitted with back eye reversing lights.

#### Contamination concerns

It is noted that the Environment Agency do not wish to comment on the application. Further the Contaminated Land Officer has stated that they have considered the application for this site which is located on a completed landfill site, as the rest of this industrial area. No significant intrusion into the landfill is proposed and no concerns in relation to this proposal are anticipated providing that a fully concreted yard area is provided incorporating surface water drainage to a proper outfall (as proposed).

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Notwithstanding the submitted details, prior to the use of any external lighting of the site, a lighting scheme shall be submitted to and approved in writing by the local planning authority which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution prior to first use. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable. The development shall be carried out in full accordance with the approved details.  
(Reason - In the interests of preventing light pollution and loss of amenity in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan.)
4. No high frequency audible reversing alarms or white noise alarms shall be permitted on any site vehicle or vehicle based at the site. Vehicles shall be fitted with back eye reversing lights and retained as such.

(Reason - To protect the amenities of local residents from high frequency alarm noise which is audible over considerable distances in accordance with Policy EN14 (Control of Pollution) of the East Devon Local Plan.)

5. No vehicles shall be accepted or despatched except between the hours of 5.30am and 6pm Monday to Saturday, and not at all on Sundays or Bank Holidays.

(Reason - To protect the amenities of local residents from noise in accordance with Policy D1 (Design and Local Distinctiveness) and EN14 (Control of pollution) of the East Devon Local Plan.)

6. The materials to be used on the exterior and roof of the office and welfare buildings and the splash screen shall be coloured olive green.

(Reason - For the avoidance of doubt and in the interests of the appearance of the site in accordance with Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.

#### 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.

##### Plans relating to this application:

	Travel Plan	23.05.16
7381-04	Proposed Combined Plans	26.05.16
ENQ161028/01C	Layout	26.05.16
ENQ161028/02B	Proposed Elevation	26.05.16
7381-01 REV A	Proposed Site Plan	23.05.16
7381-02	Location Plan	23.05.16

##### List of Background Papers

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

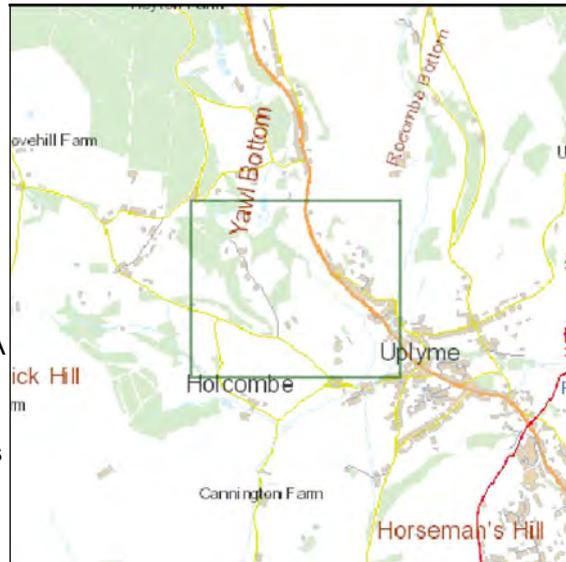
**Ward** Trinity

**Reference** 16/2101/FUL

**Applicant** Mr P Stratton (Primrose 2013)Ltd

**Location** Lymewood Retirement Home Lyme Road Uplyme Lyme Regis DT7 3XA

**Proposal** Change of use of nursing home (Class C2) to 3 no. dwellings (Class C3)



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 6<sup>th</sup> December 2016</b>
<b>Trinity (UPLYME)</b>	<b>16/2101/FUL</b>	<b>Target Date: 25.11.2016</b>
<b>Applicant:</b>	<b>Mr P Stratton (Primrose 2013)Ltd</b>	
<b>Location:</b>	<b>Lymewood Retirement Home Lyme Road</b>	
<b>Proposal:</b>	<b>Change of use of nursing home (Class C2) to 3 no. dwellings (Class C3)</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as is represents a departure from the adopted development plan.**

**The site lies outside of any recognised built up area boundary situated close to the village of Uplyme but located in the open countryside. It currently comprises a large detached three storey grade II listed building which is not currently in use (the former care home use having ceased). It lies in extensive grounds which take the form of a landscaped garden with long dedicated access drive linking to a country highway to the north of the building. A secondary access is available to the west of the building also linking to a country highway.**

**There are no policies within the adopted East Devon Local Plan that would support the subdivision of the care home into three residential properties, and no policies that would support residential dwellings in this location. However, it must be considered whether there are any material considerations that would justify the proposed development.**

**Paragraph 55 of the NPPF facilitates isolated homes but only in exceptional circumstances within the open countryside and sets out a range of special circumstances including where the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. It is under this that a case can be made to support the development proposed.**

**The optimum viable use may not necessarily be the most profitable one. It might be the original use, but that may no longer be economically viable or even the most compatible with the long term conservation of the asset. It is clear from its location that any employment generating use would not be preferable within such an unsustainable position. In this instance there is little doubt that a**

subdivision for a hotel purpose would inherently lead to similar impacts on the historic fabric as the existing care home use but generate on going revenue for the owners and the wider economy through holiday expenditure. However, a local property consultant has advised that due to its location away from the sea it would not be a particularly viable option given the current economic climate.

A minimal number of changes to the historic fabric are required to subdivide the care home as internally the exiting layout lends itself to be compartmentalised save for some partitions to replace doorways. Externally no physical changes would be required except for the subdivision of the garden. The guidance makes it clear however that from a conservation point of view there is no real difference between viable uses then the choice of use is a decision for the owner. In this instance it is conceded that a separate residential use could, under para 55, be facilitated as whether the dwelling is used for holiday purposes (hotel) or residential the impact on the fabric of the listed building would be similar and represents a more long term viable use than present. Officers are also of the opinion that resident use would ensure the future maintenance and care of the listed building.

The impact on the setting of the listed building, residential amenity and highway safety are all considered to be acceptable. The application is therefore supported on the basis that a change of use to 3 residential properties would be in the best interest of the future of the listed building, without causing any harm to the listed building and this outweighs the lack of Local Plan support for the proposal.

## **CONSULTATIONS**

### **Local Consultations**

#### Trinity - Cllr I Thomas

The former Lymewood Nursing Home (also known as Woodhouse) is a Grade2 listed building to the north of Uplyme Village accessed primarily from Lyme Road and from Woodhouse Hill. The property is a modest, walk from the village centre and access to local facilities and in what I would consider a 'sustainable' location.

The loss of care facilities and associated employment when Lymewood closed in 2015 is unfortunate in the context of the aging East Devon population. The closure for economic reasons questions the viability of this building for its existing use.

Strategy 7 of the Local Plan relates to the control of development in the countryside. If this location is accepted as 'sustainable' then it is important that the future of this heritage asset is safeguarded in a manner which avoids 'substantial harm'.

The Manor House at nearby Rousdon is probably a similar situation which might inform. There, as here a large former dwelling was converted into institutional use, in that case a school, which then failed for economic reasons. This building was then sympathetically converted into three private dwellings and now forms the centre piece of the Rousdon Estate.

Having considered the Conservation Officers comments, I support the conversion of the former Lynwood Nursing Home into three private dwellings, subject to the necessary listed building consents.

This approach is also supported by Uplyme Parish Council. In the event Officers are minded to recommend refusal, I ask that the application be offered to Development Management Committee for determination.

Further comments:

Thanks for this report. I have no quarrel with the proposed outcome, as you would expect. However, I note that it will come to committee on the 6<sup>th</sup> as there is an absence of applicable policy.

My intention is to attend and speak.

Parish/Town Council

The Parish Council Planning Committee does not object to the application

**Technical Consultations**

County Highway Authority

Highways Standing Advice

Other Representations

No third party representations have been received

**PLANNING HISTORY**

84/P1595/FUL	Cjange of Use to Residential Home for the Elderly	Approval with conditions	18.10.1984
07/0948/FUL	Erection of greenhouse	Approval with conditions	25.05.2007
07/2600/FUL	Extension to form laundry room and garden store with conservatory and bathroom over	Approval - standard time limit	12.11.2007
07/2605/LBC	Extension to form laundry room and garden store with conservatory and bathroom over	Approval with conditions	12.11.2007

09/0176/FUL	Erection of summerhouse and alterations to parking area.	Approval with conditions	30.04.2009
09/0882/FUL	Erection of entrance gates with piers and re-surfacing of vehicular circulation areas	Approval with conditions	03.06.2009
09/0481/LBC	Alterations to existing staircase and installation of platform lift between ground and first floors	Approval with conditions	16.04.2009
11/0854/LBC	Installation of platform lift and replacement second floor window.	Approval with conditions	12.05.2011
11/1869/VAR	Variation of condition 4 of permission 06/0855/FUL to enable roofspace to be used as office and occasional sleep over facility including insertion of rooflights and removal of ground floor windows	Approval with conditions	07.11.2011
12/2190/ADV	Display of 2no advertisement entrance signs	Approval with conditions	18.12.2012

## **POLICIES**

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

Strategy 7 (Development in the Countryside)

TC2 (Accessibility of New Development)

EN9 (Development Affecting a Designated Heritage Asset)

TC7 (Adequacy of Road Network and Site Access)

D1 (Design and Local Distinctiveness)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

## **Site Location and Description**

The site lies outside of any recognised built up area boundary situated close to the village of Uplyme but located in the open countryside. It currently comprises a large detached three storey grade II listed building with is not currently in use and the former care home use has now ceased. It lies in extensive grounds which take the form of a landscaped garden with long dedicated access drive linking to a country highway to the north of the building. A secondary access is available to the west of the building also linking to a country highway.

## **Proposed Development**

This application seeks full planning permission for the change of use and subdivision of an existing care home (C2 use) into 3 no. residential dwellings (C3 use). There would be no external changes proposed to the building, although the garden area is proposed to be subdivided to provide a separate curtilage for each dwelling. There would be minimal internal alterations; a separate listed building consent would be required for these works.

### Background

The premises operated as a care home until recently at the time of closing the home was registered for 37 residents, employing 35 staff with a maximum of 16 in attendance during any one shift. However, due to increasing safeguarding legislation that was introduced by the Care Quality Commission (CQC) the home was unable to remain viable and was forced to close; the residents have been re-homed elsewhere.

The following commentary has been submitted with the application for justification for its proposed use:

The marketing of the property for sale has been with Christies and Savills, which is still ongoing. During the past year we have had a number of people look at the property, these have included other care home operators, hoteliers, boutique hotels, property developers, schools and private individuals. But:

(i) It is difficult to re-open the premises for care home provision, which would be subject current standards, which are likely to be difficult to fulfil due to the building's listed status;

(ii) Prospective hoteliers found it too small to make a viable operation - rooms are too small and conversion would result in loss of rooms. The addition of a large extension has been considered, but likely to be not possible difficult to achieve for planning listed building reasons;

(iii) The boutique hotel was much the same on size of rooms and conversion costs;

(iv) developers who have shown interest either wanted to divide the property into several flats or build in the extensive gardens, which again was considered a difficult proposition given the areas AONB designation and the listed status of the principal building;

(v) We have had a searched for someone wanting to open a school, but to date this has received little response;

(vi) A number of private individuals have had a look at the property, but we gather daunted by the conversion costs of the property and the upkeep, including the grounds.

Because marketing was not achieving any satisfactory sales we have considered the option of undertaking the property development ourselves. Our initial thought was flats, but on seeking advice from a local property agent (Martin Diplock Chartered Surveyors, Lyme Regis) we have been advised that there is little or no market for flats Uplyme because of the Lyme Regis effect where they do tend to be popular. Houses on the other hand, particularly large houses do sell. Thus we have come up with a scheme to divide the property into three dwellings with vertical divisions, which seems to be an equitable and viable alternative between several small flats and one very large house, neither of which seems attractive to the market. The whole building readily converts to three units without the need for extensive internal alteration and no physical outside changes.

## **ANALYSIS**

The main considerations in the determination of this application are the principle of the proposed development, the impact of the proposal on its surroundings, impact on the setting of the listed building and impact on highway safety

### **Principle**

The proposal seeks planning permission to subdivide the former care home which would result in three dwellings, with associated curtilages. The application site is situated outside a recognised built up area boundary distant from services and facilities required for daily living, furthermore there are no suitably lit footways for access to services in the nearby settlement of Uplyme and the site is not served by any public transport. In line with Strategy 7 and Policy TC2 of the East Devon Local Plan the proposal is considered to take place in an unsustainable location. The applicant's agent contends that whilst the site is in an unsustainable location, the number of traffic movements associated with the proposed use would be a reduction over the existing lawful use where staff and deliveries far outweighed the normal domestic generated trips. Whilst this is a consideration it is only one which must be weighed in the sustainability balance.

There are no policies within the adopted East Devon Local Plan that would facilitate the subdivision of the care home into three residential properties in this location, therefore the application is contrary to the Adopted Local Plan and advertised as a departure. However, it must be considered whether there are any material considerations that can justify approval of permission.

Paragraph 55 of the NPPF facilitates isolated homes but only in exceptional circumstances within the open countryside and sets out a range of special circumstances including where the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. It is under these special circumstances that a case can be made to support the development proposed.

It is the applicant's consideration that the units historically had been used as one large dwelling and is therefore simply reverting to this, though with such a large floorspace over three floors and the former use extending to 37 bedrooms, the house would be too large and a single unit and there would be a high level element of redundancy and that the works are required to preserve the historic building. It is claimed that refurbishment into a single dwelling or boutique hotel would not be economic.

As such without underpinning of expenditure required that can only be provided by a separate full residential use the project would not proceed, placing the building at risk of breakdown and decline.

The NPPG explains what a viable use for a heritage asset is and how it should be taken into account in planning decision. This explains that if there is only one viable use then that use is the optimum viable use. If there is a range of alternative viable uses the optimum use is the one likely to cause the least harm to the significance of the asset - not just through necessary initial changes but also as a result of subsequent wear and tear and likely future changes.

The optimum viable use may not necessarily be the most profitable one. It might be the original use, but that may no longer be economically viable or even the most compatible with the long term conservation of the asset. It is clear from its location that any employment generating use would not be preferable within such an unsustainable position. In this instance there is little doubt that a subdivision for a hotel purpose would inherently lead to similar impacts on the historic fabric as the existing care home use but generate on going revenue for the owners and the wider economy through holiday expenditure. However, a local property consultant has advised that due to its location away from the sea it would not be a particularly viable option given the current economic climate and concerns over BREXIT. This appears to be backed up by the marketing evidence. It is understood that historically the building may have been used as a single dwelling but at some point this ceased and the building was then used as a care home. As planning permission is now needed for the creation of three dwellings it must be considered under current planning policy, in this instance paragraph 55 of the NPPF.

A minimal number of changes to the historic fabric are required to subdivide the care home as internally the existing layout lends itself to be compartmentalised save for some partitions to replace doorways. Externally no physical changes would be required except for the subdivision of the garden. The guidance makes it clear however that from a conservation point of view there is no real difference between viable uses then the choice of use is a decision for the owner. In this instance it is conceded that a separate residential use could, under para 55, be facilitated as

whether the dwelling is used for holiday purposes (hotel) or residential the impact on the fabric of the listed building would be similar and represents a more long term viable use than present. Officers are also satisfied that a residential use would secure the long-term maintainance and upkeep of the listed building.

As a result the above, it is considered that the proposal accords with paragraph 55 of the NPPF and provides the most viable use for the listed building. This is considered to outweigh the lack of policy support for the proposal in the Local Plan.

### **Impact on surroundings**

The site lies in the open countryside and in the AONB, it is surrounded by mature trees and as such with no external changes to the building it would not impact unreasonably on its immediate or wider distance surroundings.

There are no neighbouring properties in close proximity to the building that would be impacted upon as a result of the proposal.

### **Impact on the setting of the listed building**

Under Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) there is a duty imposed on Local Planning Authorities to pay special regard to preserving the setting of the listed building when considering applications which affect it.

Included as part of the significance of Woodhouse, as a County House, is the landscaped garden, which provides an aesthetically pleasing setting from which to enjoy the views, across the wider landscape to the sea. Besides the landscaped garden, provides an insight into the status of the house. In this respect, the historic and architectural value attached to the landscaped garden, makes an important contribution to the significance of the heritage asset.

The proposal therefore to sub-divide the garden area to create respective curtilages for the individual dwellings, albeit as 'judicious planting or low picket/post and rail fencing', could undermine the original intent of the landscape design and in turn the aesthetic and historic value attached to the County House. It is considered that details of the means of enclosure of each respective curtilage should be provided by condition to ensure that no harm is caused to the setting of the listed building.

The impact on the fabric of the listed building would need to be considered separately in a listed building consent application but as detailed above it is expected that the building could be suitably sub-divided.

### **Impact on highway safety**

It has already been discussed that the site lies in an unsustainable location, however, the technical aspects of the access are required to be considered.

The site is served by a dedicated access from the country highway, the lawful use as a care home generated a not insignificant volume of traffic on a daily basis

predominantly from the level of staff that worked in shifts. The level of traffic for the three dwellings proposed would more than likely be less than that which was associated with the lawful use when the care home was at maximum capacity (37 bedrooms). The long access drive accesses onto a lightly trafficked country highway where there is adequate visibility from and of emerging vehicles.

Therefore notwithstanding the unsustainable location, the access and number of traffic movements are considered to be acceptable in accordance with Policy TC7 of the East Devon Local Plan.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Prior to the first residential use of the building commencing the method of subdividing the existing garden area into three separate residential curtilages shall be submitted to and approved in writing by the Local planning Authority. The means of enclosures as approved shall be implemented prior to first occupation of the unit which they serve and thereafter retained and maintained for that purpose.  
(Reason: To ensure that the method of subdividing the curtilage of the former care home is appropriate to the setting of the listed building in accordance with

### NOTE FOR APPLICANT

Informative:

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

### Plans relating to this application:

1:1250	Location Plan	02.09.16
TW16/60/1 GROUND	Proposed Floor Plans	29.09.16
TW16/60/2 1ST	Proposed Floor Plans	29.09.16

FLOOR

List of Background Papers

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

Ward Woodbury And Lymptone

Reference 15/0982/VAR & 16/1062/V106

Applicant Cavanna Homes (Devon) Ltd

Location Land To South Broadway  
Woodbury

Proposal 15/0982/VAR: Removal of Condition 6 (temporary car park) of approval granted under 13/1231/MOUT (20 dwellings with access)  
16/1062/V106: Variation of requirement for affordable housing in Section 106 Agreement pursuant to application 13/1231/MOUT



**RECOMMENDATION: 15/0982/VAR - Approval with conditions**  
**16/1062/V106 - Amend the affordable housing schedule within the original Section 106 agreement to provide 7 Rent Plus units.**

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		<b>Committee Date: 06.12.2016</b>
<b>Woodbury And Lympstone (WOODBURY)</b>	<b>15/0982/VAR</b>	<b>Target Date: 23.07.2015</b>
<b>Applicant:</b>	<b>Cavanna Homes (Devon) Ltd</b>	
<b>Location:</b>	<b>Land To South Broadway</b>	
<b>Proposal:</b>	<b>Removal of Condition 6 (temporary car park) of approval granted under 13/1231/MOUT (20 dwellings with access)</b>	

**RECOMMENDATION: Approval with conditions**

		<b>Committee Date: 06.12.2016</b>
<b>Woodbury And Lympstone (WOODBURY)</b>	<b>16/1062/V106</b>	<b>Target Date: 27.05.2016</b>
<b>Applicant:</b>	<b>The Cavanna Group</b>	
<b>Location:</b>	<b>Land To South Broadway</b>	
<b>Proposal:</b>	<b>Variation of requirement for affordable housing in Section 106 Agreement pursuant to application 13/1231/MOUT</b>	

**RECOMMENDATION: Amend the affordable housing schedule within the original Section 106 agreement to provide 7 Rent Plus units.**

#### **EXECUTIVE SUMMARY**

**Both the Section 106BA application and the Section 73 application forming part of this report need to be considered in tandem, as a decision taken in relation to one, will directly affect the other. The applications are before Members of the Development Management Committee as the view of officer's differs from that of the Ward Member and Parish Council in relation to application 15/0982/VAR.**

**One of the applications (15/0982/VAR) seeks planning permission under Section 73 of the Town and Country Planning Act 1990 to remove condition 6 which relates to the provision of 12 car parking spaces during construction.**

**The other application (16/1062/V106) is made through procedures introduced by central government to permit the affordable housing requirements of Section 106 agreements to be reassessed in the light of the current economic circumstances. The procedures allow for a reassessment of viability and are aimed at bringing forward sites for development which have stalled or otherwise remain undeveloped due to the affordable housing requirements previously negotiated no longer being viable to deliver.**

**Outline planning permission was granted in 2013 (ref 13/1231/MOUT) for the construction of 20 dwellings with access off Broadway. The outline planning permission was granted subject to a condition which required the provision of 12 temporary car parking spaces within the site during the construction phase for residents of Broadway who have habitually used the informal roadside verge for parking on land that will become part of the development site. The developer is still committed to providing 12 permanent spaces for non-residents within the site as part of the original approval and there would be 4 informal spaces retained during construction along the verge behind the visibility splay.**

**This application is finally balanced in that there is a highways objection from Devon County Council yet the applicant has provided a robust case as to why the parking spaces cannot be provided during construction which is linked to health and safety, the deliverability of the site and the viability of the scheme which in-turn has an affect on the ability to deliver affordable housing. In tandem to this application is the Section 106BA application which has assessed the viability of the scheme with or without the temporary car parking spaces which in-turn impacts on the amount of affordable housing that can be secured.**

**Whilst the concerns of the Highway Authority are not to be taken lightly, officers are of the opinion that the loss of informal parking spaces for a temporary period, the impact this is having on the level of affordable housing provision and indeed the overall delivery of the scheme, coupled with the health and safety concerns arising from the likely conflict between members of the public using the spaces and construction traffic, on balance, the application should be approved. The long term benefits to be derived from the delivery of affordable housing are considered to marginally outweigh the highway objection.**

**Application 15/0982/VAR is therefore recommended for approval.**

**With regard to the other application (16/1062/V106), the original outline planning permission for 20 dwellings on the site was accompanied by a Section 106 agreement which secured on-site provision of 2 shared ownership dwellings and 6 affordable rented dwellings (40% policy compliant scheme).**

The applicant's have provided robust viability evidence that has been scrutinised by the District Valuer (DV) and the Council's Development Monitoring and Enabling Officer who concur that the information that has been provided adequately demonstrates that a reduction in affordable housing would be sufficient to bring the site forward from the applicant's point of view and therefore bring forward the other material benefits of the scheme such as completion of the site, the provision of more housing for Woodbury and the promotion of economic growth through construction.

The viability case that has been put forward has been accepted with the best case scenario being should Members approve the Section 73 application, the proposal would be able to deliver either 40% affordable housing in the form of 8 discounted market units sold at 80% of market value, or 35% in the form of 7 Rent Plus units on-site. Should Members decide refuse the Section 73 application then the cost of providing the on-site spaces during construction would mean that the development could only deliver 15% affordable housing in the form of 3 Rent Plus units. The officer recommendation is to accept the 7 Rent Plus units should Members agree to approve the Section 73 application and the 3 Rent Plus units if the Section 73 application is refused.

## **15/0982/VAR: CONSULTATIONS**

### **Local Consultations**

#### Woodbury & Lympstone - Cllr R Longhurst

This application cannot be supported the developers knew of this requirement when purchasing the land and must honour their obligation to local residents.

#### Parish/Town Council

Objection to amended plans in line with the recommendation from County Highways Authority dated 9 June 2015 (P/S: Edwards/Jung - vote: AIF)

Further comments:

Not supported as all original concerns still apply.

The Parish Council reiterate the objection to Amended Plans in line with the recommendation from County Highways Authority dated 9 June 2015.

### **Technical Consultations**

#### County Highway Authority

Observations:

The LPA will be aware that the requirement of the temporary car park was a (13/1231/MOUT) recommended condition suggested by the CHA after negotiations with the applicants highway consultant.

The primary reason for this condition is to provide adequate and safe parking for the residents of Broadway who have habitually used the informal roadside verge parking on land that is now part of the development site until the permanent replacement parking is built by the developer. The B3178 Broadway Road is a busy road linking Exeter to the east of Exmouth and Budleigh Salterton and is frequented by large numbers of HGV's as well high levels of traffic throughout the day. To park anywhere else on Broadway close to the residents properties could be dangerous for all road users not only residents. In the provision of the permanent car parking and the pedestrian crossing as part of the development, the developer has recognised the lack of existing parking that their development will create and the dangerous nature of this road. The provision of the temporary parking is just as necessary in road safety terms as the long term residential parking solution.

The CHA strongly recommends that 15/0982/VAR is refused in the interests of road safety to all road users and to maintain the existing and future vehicle parking amenity that has been enjoyed by residents.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposal would result in the loss of vehicle parking facilities and would therefore encourage parking on the highway, with consequent risk of additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework.

Officer authorised to sign on behalf of the County Council  
9 June 2015

Further comments:

Re-Consulted 10th May 2016

I refer the Local Planning Authority to the comments made on Tuesday 24th Nov 2015:

For some reason when recently considering I had it in my mind that Condition 6 of 13/1231/MOUT required the provision of 6 car parking spaces; however having relooked at the condition it quite clearly states:- "The additional temporary parking facilities for 12 number existing residential parking spaces as shown on the approved drawing 13319/T06 shall be provided for the duration of the construction period or until the permanent 12 number existing residential as shown on the approved Outline plan have been constructed.

(Reason - To ensure that the existing residential parking amenity is maintained at all times and in the interests of highway safety in accordance with Policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan.)".

You will see from my wording in my latest response (dated 18/11/2015) that I thought it was 6 spaces conditioned rather than 12 spaces. In the light of this, I do not think that the provision of 4 spaces offered by the applicant is adequate mitigation for the required 12 spaces and wish to withdraw my latest response.

As you know the applicant had started negotiations with the adjacent landowner and outline applicant, Clinton Devon Estates, and with their tenant to provide off-site existing residential parking until the permanent on-site parking was built. But I understand that negotiations have broken down.

My error has rightly been brought to my attention by Mr Richard Bartlett (Woodbury Parish Council) and I understand that they are due to discuss the proposed variation this evening. Therefore I wish to make my position clear. The provision of 4 temporary parking spaces is not enough to mitigate until the permanent 12 spaces are built and the lack of off-carriageway temporary parking is likely to lead to unsafe parking on the highway with consequential danger to all road users.

I apologise for any confusion this may have caused. Therefore the CHA recommends that this application is refused for the reasons below:

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposal would result in the loss of vehicle parking facilities and would therefore encourage parking on the highway, with consequent risk of additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework.

Officer authorised to sign on behalf of the County Council 10 May 2016

#### Environment Agency

This application relates to the removal of Condition 6 (temporary car park) and as such we have no comments to make.

Further comments:

Our earlier comments of 4th November 2014 (in relation to 13/1231/MOUT) remain unaltered.

Our records indicate that we did not recommend any conditions to be included on decision no. 13/1231/MOUT. We therefore have no comments to make on the removal of this condition.

#### Other Representations

29 letters of objections have been received raising concerns which can be summarised as:

- Inconvenience caused through loss of parking
- Highway safety impacts arising through reduction in visibility, congestion on the road
- There isn't enough alternative parking in Woodbury
- Traffic congestion during construction
- Increased nuisance to residents
- Traffic congestion and risk of accidents
- Loss of a well established parking arrangement for residents of Broadway
- Health and safety is not a valid excuse
- Loss of 12 car parking spaces is unacceptable
- The provision of 4 spaces is inadequate.

## **16/1062/V106 CONSULTATIONS**

### **Local Consultations**

#### Parish/ Town Council

Not supported as the reduction in affordable housing provision from 40% to 15% (8 units to 3 units) is not considered adequate.

### **Technical Consultations**

#### EDDC Housing Strategy Officer:

We are disappointed that the applicants have not approached the Council before submitting their application to discuss their viability concerns.

This application included 8 affordable dwellings (6 for affordable rent and 2 for intermediate). We understand that a Registered Provider (RP) has made an offer for the affordable units although this was before the Summer Budget announcements. A revised offer from the RP has not, as far as we are aware, been sought. The applicant's viability assessment has assumed an acceptable purchase price for the affordable units which is not evidenced.

We understand that the applicant's viability assessment has concluded that the site can support a reduced number of 3 affordable rented homes. We are not aware of the decision made by the Council's Development Enabling & Monitoring Officer or the District Valuer on whether this site is viable with the current affordable housing obligations.

To help ensure these much needed affordable homes are delivered in Woodbury, consideration will be given to a change to the tenure split and or tenure types.

## **POLICIES**

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

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 5 (Environment)

Strategy 6 (Development within Built-up Area Boundaries)

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

Strategy 34 (District Wide Affordable Housing Provision Targets)

Strategy 48 (Local Distinctiveness in the Built Environment)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### Government Planning Documents

NPPF (National Planning Policy Framework 2012)

National Planning Practice Guidance

## **Site Location and Description**

The site refers to a portion of agricultural land (approximately 0.6 hectares) on the south eastern edge of the village of Woodbury. It is located outside of the built-up area boundary of the village as defined by the East Devon Local Plan although the north western boundary of the site does abut it. In terms of the topography of the site, the land gently undulates north west to south east and slopes down towards a stream to the south of the application site. There is an existing field gate and a pedestrian access and public footpath on the eastern side of the site which crosses the larger field and terminates on Couches Lane. The application site is bounded by the B3179 Broadway to the north, agricultural land to the east and south and residential dwellings to the west. To the front of the site there is a long gravelled lay-by which appears to be used for unauthorised off road parking behind which is a hedgerow which forms the front boundary. The site is not the subject of any national or local landscape designations and immediately abuts the Woodbury Conservation Area. Two dwellings on the opposite side of the road (Rosemary and Bixley Haven) are grade II listed.

## **Planning History**

Outline planning permission was granted in 2013 (ref 13/1231/MOUT) for the construction of 20 dwellings with access off Broadway. The accompanying Section 106 agreement included on-site provision of 2 shared ownership dwellings and 6 affordable rented dwellings. The outline planning permission was granted subject to a condition which stated:

*The additional temporary parking facilities for 12 number existing residential parking spaces as shown on the approved drawing 13319/T06 shall be provided for the duration of the construction period or until the permanent 12 number existing residential as shown on the approved Outline plan have been constructed.*

*(Reason: To ensure that the existing residential parking amenity is maintained at all times and in the interests of highway safety in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan)*

A Reserved Matters application was granted in 2015 (ref 15/1370/MRES) for 20 dwellings, approval was granted for appearance, layout, scale and landscaping.

## **Proposed Development:**

### **15/0982/VAR:**

Under Section 73 of the Town and County Planning Act 1990, planning permission is sought to remove condition 6 of the outline planning permission which requires the provision of 12 on-site temporary car parking spaces during the construction phase. The application is accompanied by a viability report which sets out how in addition to health and safety concerns and practical issues that are likely to arise with the conflict between construction traffic and users of the car parking spaces, there would be significant cost implications in providing the measures required to address and mitigate the identified health and safety concerns which in-turn impacts on the viability of the scheme and on the delivery of on-site affordable housing.

It should be noted that the applicants are fully committed to providing the 12 permanent on-site car parking spaces and that it is the requirement to provide the temporary spaces which is causing the issue which is affecting the deliverability of the scheme and its viability.

**16/1062/V106:**

Being determined alongside this application is a Section 106BA application which seeks to reduce the amount of affordable housing provided, for reasons of viability. The application is made under amendments to the Town and Country Planning Act 1990 that came into effect on the 25<sup>th</sup> April 2013. The Growth and Infrastructure Act inserted a new Section 106 BA, BB and BC in the 1990 Town and Country Planning Act. These sections provide a formal mechanism for the review of planning obligations on planning permission which relate to the provision of affordable housing. As well as providing a new application procedure they also introduced an appeal procedure. The procedures did/ do not replace or remove the existing ability for such agreements to be renegotiated on a voluntary basis.

At the same time guidance on the method of dealing with such applications was provided by the Department for Communities and Local Government (DCLG) entitled 'Section 106 affordable housing requirements: Review and appeal', April 2013. This guidance is clear that:

*'The application and appeal procedure will assess the viability of affordable housing requirements only. It will not re-open any other planning policy considerations or review the merits of the permitted scheme'*

The application that has been submitted seeks to reduce the affordable housing requirements across the site from the 40% secured through the original S106 agreement to the five options below. The viability report submitted with the Section 106BA application has assessed the viability of delivering the scheme with the planning consent as it currently stands i.e. with the provision of temporary car parking spaces. The viability report demonstrates that the scheme with the residential car parking not being provided until construction of the site has substantially finished can viably support:

- 40% (8) discounted market units, sold at 80% of market value
- 35% (7) Rent Plus units
- 20% (4) Affordable Rent Units

Should the development provide the temporary car parking area during construction, then the scheme will only be deliverable in viability terms with a maximum affordable housing provision of:

- 20% (4) discounted market units, sold at 80% of market value or
- 15% (3) Rent Plus Units

Rent plus is a particular kind of rented affordable housing product. Although the model does not secure affordable housing in perpetuity it is currently one of the very few initiatives still able to deliver rented affordable housing.

The applicants have submitted viability information which has been provided on a confidential basis and includes detailed costing breakdowns, Residual Land Valuations for the various options considered and a breakdown of the costs that would be incurred in relation to on-site car parking provision. From the five options presented, Members will note that the provision of temporary car parking spaces will have an impact on the level of affordable housing that can be secured as part of this development.

The viability information has been analysed by the Council's Development Monitoring and Enabling Officer and the District Valuer (DV). Both the Section 106BA and the Section 73 applications need to be considered in tandem, as a decision taken in relation to one, will directly affect the other.

## **ANALYSIS**

### **Background:**

The site benefits from outline planning permission for 20 no dwellings and also a Reserved Matters permission which effectively amounts to a detailed permission.

Members should note that the outline planning permission that was granted secured the provision of 12 permanent car parking spaces within the development site as well as 12 temporary car parking spaces during construction. The requirement for the provision of 12 permanent and temporary car parking spaces arose during consideration of the outline application and was a condition suggested by the County Highway Authority after negotiations with the applicant's highway consultant who offered the spaces. The primary reason for the condition for the provision of the temporary car parking area was to provide adequate and safe parking during construction for the residents who have used the informal roadside verge for parking on land that will become part of the development site (the access and visibility splays) until the permanent replacement parking is built by the developer.

### **Key Issues:**

The principle of residential development on this site has been accepted and the committee report attached to the 2013 application provides a detailed assessment of all planning issues. The main issues to consider in determining the Section 73 application are in terms of justification that has been put forward by the applicant for not providing the temporary car park spaces during the construction phase of the development and the impact this would have in terms of highway safety and parking provision for existing residents which must be carefully balanced against the impact on the overall viability of the development and for the delivery of on-site affordable housing.

The main issues to consider in determining the Section 106BA application are in terms of an assessment of the viability evidence that has been put forward in support of reduced affordable housing numbers.

#### Section 73 application:

The case has been put forward by the applicant that the provision of temporary car parking during construction is an abnormal development cost which impacts on the viability and deliverability of the scheme (it will add to timescales and speed and complexity of delivery) and the number of affordable housing units that can be delivered. As such the applicant's case is that there is in effect a decision to be made between maximising the number of temporary car parking spaces and the highway safety benefits of this against maximising the number of affordable homes provided.

Issues regarding viability are discussed below following an explanation of the highway safety matters.

#### Highway Safety:

The B3178 Broadway Road is a busy road linking Exeter to the east of Exmouth and Budleigh Salterton and is frequented by large numbers of HGV's as well high levels of traffic throughout the day. The County Highway Authority have objected to the proposal to remove the condition for the provision of temporary car parking during construction on the basis that the existing residents of Broadway have parked informally for many years on land adjacent to the carriageway on the south side of the road. It is likely that residents do so because this is the safest and most convenient place to park to gain access to their properties on the opposite side of the road. The CHA are concerned that the proposed development would lead to the loss of this area for informal parking which they suggest because of reasons of convenience and access to their properties, is likely to lead to residents parking on the other side of the Broadway road during construction where because of the lack of adequate forward visibility it would be unsafe to do so.

The CHA have advised that to park anywhere else on Broadway close to the residents properties could be dangerous for all road users not only residents. In securing the provision of the temporary and permanent car parking as part of the development, the CHA suggests that the developer has recognised the lack of existing parking that their development will create and the dangerous nature of this road. They are therefore of the opinion that the provision of the temporary parking is just as necessary in road safety terms as the long term residential parking solution and strongly recommend the application is refused in the interests of road safety to all road users and to maintain the existing and future vehicle parking amenity that has been enjoyed by residents.

Whilst the highway safety concerns of the CHA are not to be taken lightly, there are a number of factors which officers consider weaken the grounds for a highways objection. The current car parking alongside Broadway is an informal arrangement and the residents have no formal rights to park in this area. In addition, there are no parking restrictions on the other side of the Broadway road such that residents could choose to park their vehicles close to properties if they wished. Furthermore, whilst

concerns about visibility are noted, the highway does straighten out further along Braodway offering unrestricted parking in places which are less likely to give affect visibility whilst still providing convenient access to existing properties. Lastly, it is not known who park in the lay-by or why and therefore the assumption that it is used only by residents who live on the opposite side of the road may be incorrect.

The applicant has also advised that there is on street parking available on Fulford Way which is only around 150 metres from the site where there is an adopted and lit footpath link to houses on the opposite side of the main road suitable for pedestrian use. Residents who parked in the lay-by could therefore temporarily park on this road rather than on Broadway.

A final point which weighs in favour of the applicant's case is that they have been able to demonstrate that a proportion of the existing verge can be still be made available for residents parking during the construction phase of development. The developer intends to undertake access works in advance of the additional formalising of the carriageway edge for the entire length of the verge. This would theoretically allow for the parking of 4 cars behind the visibility splays such that there would only be a temporary loss of 8 car parking spaces should the application to remove the condition be approved. The applicant does however wish to point out that in allowing the existing verge to continue being used for residents to park they are not accepting or proposing that the verge is safe or acceptable area for parking. They will not therefore be liable for any accidents that may arise as a result of residents continuing to the use the verge as they currently do so.

The objection from the CHA does weigh against the proposal and it is acknowledged that the ideal scenario would be to insist on the provision of the temporary car parking spaces during construction, however officers have been in lengthy discussions with the applicant in relation to ascertaining the need and justification for this application and the problems the provision of the temporary spaces causes to the deliverability of the scheme. Initially these discussions were limited to health and safety issues that might arise if the temporary car park was provided on site for residents during the construction phase of the development. Reference has been made to the Construction Design and Management (CDM) Regulations 2007 which impose a legal duty on everyone associated with the project to eliminate risks where reasonably practical to do so. The case has been put forward that a temporary car parking area would increase the risk to the public and site workers as a result of a conflict between users. The development site has been approved with a single entrance which would be shared during the construction phase such that it is agreed that there is likely to be a conflict between construction traffic and machinery and pedestrians accessing the car parking spaces. In addition, it has been highlighted that due to the limited amount of operational room on the site, residents using the temporary car parking spaces may have to wait for long periods of time in order to safely access the car park or maybe blocked in when deliveries are being made.

Whilst the health and safety matters are not to be ignored, as they are covered by other legislation, such concerns were felt to be of limited weight in the planning balance, especially when considered against the outstanding highways objection from Devon County Council.

It should also be noted that discussions with the applicant have also included exploring other means of providing temporary car parking spaces during construction which have included contacting the landowner of the adjoining field and looking at various ways of phasing the development to minimise the potential for conflict between construction traffic and residents. Unfortunately discussions with the adjoining landowner were not fruitful as there would have been implications for compensation to the tenant farmer and therefore this option was discounted.

Likewise, given the limited size and space within the site and the fact that it has a single access point, it wasn't considered that phasing the development would allow for the provision of temporary spaces in a manner that wouldn't give rise to health and safety issues. Therefore, it should be noted that officers have tried to find a solution to this issue so as not to appear to have lightly overridden the highway safety objection from Devon County Council. Indeed the CHA have also been involved in the process and no suitable solution for alternative temporary car parking to compensate for the loss of the verge has been arrived at.

Whilst the health and safety concerns of the developer carry a degree of weight in the planning balance, it is not felt that this is sufficient on its own to outweigh the highway safety objection from the CHA or the views of local residents, Parish Council and Ward Members. However, through various discussions and meetings with the applicants with the Council's Development Monitoring and Enabling Officer it has become apparent that in addition to the health and safety issues, there is also a significant cost implication in providing the measures required to address and mitigate the identified health and safety concerns which in-turn impacts on the viability of the with subsequent consequences for on-site affordable housing provision which must be factored into the overall planning balance. These cost implications are addressed below.

#### Section 106BA:

The accompanying Section 106 agreement for the original outline permission secured 40% affordable housing and included on-site provision of 2 shared ownership dwellings and 6 affordable rented dwellings.

The aforementioned DCLG publication on reviewing affordable housing requirements requires the submission by the developer of viability evidence. This has been provided by the applicant and has been independently assessed on behalf of the Council by the DV and by the Council's Development Monitoring and Enabling Officer.

The initial Section 106BA application was supported by some viability information which was forwarded to the DV for assessment and comment. The DV report was received on the 17<sup>th</sup> June 2016 and concluded that the scheme could still provide the agreed level of affordable housing. However, it acknowledged that this viability was marginal and that if further evidence was provided, particularly in regard to external works, infrastructure and abnormal site costs, the report's conclusions may need to be revisited. Additional information was provided by the applicant on September 29<sup>th</sup> which sought to draw together the issues behind both the Section 106 BA and Section 73 applications.

As paragraph 6 of the Section 106BA guidance explains ‘an application may be made to the Local Planning Authority for a revised affordable housing obligation. This application should contain a revised affordable housing proposal based on prevailing viability and should be supported by relevant viability evidence’.

The original viability evidence was subject to scrutiny by the DV and the new information provided further information in relation to plot build costs, external works and site clearance costs and additional abnormal costs which include the provision of the on-site car parking spaces during construction. The applicants have explained that the provision of the temporary car parking spaces will impact on the viability and the deliverability of the housing scheme. Additional costs are likely to arise from the potential for conflict between construction traffic and residents which requires an additional employee directing traffic in and out of the site. In addition, this is likely to delay deliveries into the site given the need for constant access for public parking as well as additional resources required to secure the site excluding the parking and access area. The temporary car parking spaces would also have an impact on the phasing of the development with a likely increase in the build duration and presents difficulties in retaining the 12 spaces and the ability to build out all of the houses whilst complying with the condition, given the limited size and constraints of the site. Overall this is likely to result in significant additional costs being incurred to deliver the development.

The viability report submitted with the Section 106BA application assessed the viability of delivering the scheme with the planning consent as it currently stands. Therefore with the provision of the temporary car parking area during construction, the scheme will only be deliverable in viability terms with a maximum affordable housing provision of:

- 20% (4) discounted market units, sold at 80% of market value or
- 15% (3) Rent Plus Units

The viability report demonstrates that the scheme without the temporary residential car parking (but with permanent spaces following construction) can viably support:

- 40% (8) discounted market units, sold at 80% of market value
- 35% (7) Rent Plus units
- 20% (4) Affordable Rent Units

The viability modelling essentially concludes that on-site car parking could not support any affordable rented housing. It should be noted that although theoretically the viability appraisals indicate that three rent plus or four affordable rent units could be supported, it may prove difficult in practice to secure 3 Rent Plus Units given the low numbers.

This position has been confirmed by the Development Enabling and Monitoring Officer (DEMO) following discussions with the applicant. Each of the options put forward has been assessed as viable and the DEMO has confirmed that this information is felt to be sufficiently detailed and robust to support the applicant’s case

that the current scheme can be made viable with some amendments. The evidence would support the viability on any of the five options currently being offered.

Whichever of the five options is chosen all but Option Three (the no on-site car parking and eight discounted market units, sold at 80% of market value) result in a lower percentage of affordable housing, as so would require an overage clause to be applied.

### The Need for Overage

Strategy 34 of the Local Plan requires that 'an overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets'. The applicant indicates their reluctance to sign up to any overage clause in relation to this scheme, referencing an appeal decision from elsewhere.

Strategy 34 was found sound at the Local Plan Examination. The requirement for an overage clause was inserted into Strategy 34 in March 2015 following the initial hearing sessions. This change was consulted on from 16<sup>th</sup> April 2015 to 12<sup>th</sup> June 2015 and considered by the Inspector as part of the reconvened hearing sessions in July 2015. It was included as a main modification and at no point did the Inspector suggest that application of the overage clause would be unacceptable or that it should be subject to certain criteria/ conditions. In addition, members have recently stressed the importance they place on overage clauses, in helping to ensure that any reduction in affordable housing provision is and remains justified.

### **CONCLUSION**

Both the Section 106BA application and the Section 73 application regarding Condition 6 need to be considered together as the viability appraisal with regards the Section 106BA has clearly demonstrated why it would not be viable for the site to deliver both the required level of affordable housing and the temporary parking area during construction.

There is a very difficult planning balance between a County Highway objection to the loss of on-site temporary car parking spaces on highway safety grounds against a reduction in affordable housing, the need to see the site developed quickly for housing and the health and safety concerns that have been raised.

Officers are not comfortable about going against the Highways recommendation, the Ward Members, Parish Council or indeed the local residents, however all avenues for alternative parking provision during construction have been explored and discounted. The developer is also fully committed to the provision of the permanent resident parking spaces in the long term.

In the interests of bringing this site forward for development as quickly as possible, whilst providing the most affordable housing, it is recommended that the Section 73 application to remove the requirement to provide on-site parking spaces during construction is approved and that the affordable housing schedule within the Section 106 agreement is amended to secure 7 Rent Plus units. This is on the basis that the

long-term social and economic benefits from securing the maximum amount of affordable housing, and indeed the delivery of all housing on the site, outweigh the highway objection, particularly in light of the lack of parking restrictions to the road, alternative local provision and that the loss of the informal parking area would be for a temporary period during construction only (estimated as approximately 12 months).

Alternatively, should members decide that the Section 73 application should be refused and that the on-site parking spaces be provided during construction, it is recommended that the Section 106 agreement is amended to secure 3 Rent Plus units and that if this is not possible the 4 discounted market units.

### **RECOMMENDATION**

Section 106BA application:

Amend the affordable housing schedule within the original S106 agreement to secure 7 Rent Plus units.

### **RECOMMENDATION**

Section 73 application:

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the 9th December 2016 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 site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 10 metres back from its junction with the public highway.  
(Reason - To prevent mud and other debris being carried onto the public highway and in the interests of highway safety in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)
3. The access road, footways, uncontrolled pedestrian crossing and visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram 13319/T04 Revision A where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 60 metres in both directions.

(Reason - To provide adequate visibility from and of emerging vehicles and in the interests of highway safety in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

4. The site access shall be provided with visibility splays in accordance with the attached diagram 13319/T04 Revision A which shall thereafter be maintained to that standard

(Reason - To safeguard pedestrians by providing adequate visibility and in the interests of highway safety in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

5. The additional temporary parking facilities for 12 number existing residential parking spaces as shown on the approved drawing 13319/T06 shall be provided for the duration of the construction period or until the permanent 12 number existing residential as shown on the approved Outline plan have been constructed.

(Reason - To ensure that the existing residential parking amenity is maintained at all times and in the interests of highway safety in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031).

6. The site and Public Footpath access shall be constructed, laid out and maintained thereafter in accordance with the attached diagram 13319/T05

(Reason - To provide a satisfactory and continued access for the general to the public footpath.)

7. The development hereby permitted shall adhere to the following:

- a. There shall be no burning of any kind on site during construction, demolition or site preparation works.

- b. No construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, and not at all on Sundays or Public Holidays.

- c. Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance .

(Reason - To protect the amenity of local residents from smoke, noise and dust in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

8. In relation to landscaping and layout, the development shall be carried out in accordance with the landscaping scheme (ref 13708\_L92.01 REV M) submitted to discharge condition 9 of 13/1231/MOUT dated 6th October 2016. Thereafter and notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no further fences, gates or walls shall be erected within the curtilage of any dwelling house.

(Reason - In the interests of the character and appearance of the area and to maintain open landscaped areas where necessary to accord with Policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the East Devon Local Plan 2013-2031).

9. In relation to tree protection, the development hereby permitted shall be carried out in accordance with the Arboricultural Method Statement (ref 04709 TPP) discharged under condition 10 of planning permission 13/1231/MOUT dated 17th August 2016. 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 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), D2 (Landscape Requirements), D3 (Trees and Development Sites) of the East Devon Local Plan 2013-2031)
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule Part 1 Classes A, B, C or D for the enlargement, improvement or other alterations to the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.  
(Reason - The site occupies a sensitive edge of village location adjacent to the Woodbury Conservation Area where additions or extensions to the properties that could be undertaken through permitted development rights could cause significant harm to the character and appearance of the area and the setting of the Woodbury Conservation Area in accordance with Policy D1 (Design and Local Distinctiveness) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031).
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule Part 1 Class E for the provision within the curtilages of the dwellinghouses hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouses as such.  
(Reason - The site occupies a sensitive edge of village location adjacent to the Woodbury Conservation Area where buildings or enclosures that could be undertaken through permitted development rights could cause significant harm

to the character and appearance of the area and the setting of the Woodbury Conservation Area in accordance with Policy D1 (Design and Local Distinctiveness) and EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031).

12. The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures contained with Section 4 of the Preliminary Ecological Appraisal undertaken by Richard Green Ltd dated May 2013.

(Reason - To provide ecological enhancement of the site in the interests of ecology and biodiversity in accordance with policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan 2013-2031 and the guidance contained within the National Planning Policy Framework.)

#### 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.

##### Plans relating to this application:

13708 L01.01	Location Plan	06.06.13
	Protected Species Report	06.06.13
13319/T04 REV A	Other Plans	06.06.13
13319/T05	Other Plans	21.08.13
SK1 REV A	Other Plans	29.10.15
	Location Plan	22.04.15
13708 L066.10	Other Plans	09.05.16

##### List of Background Papers

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

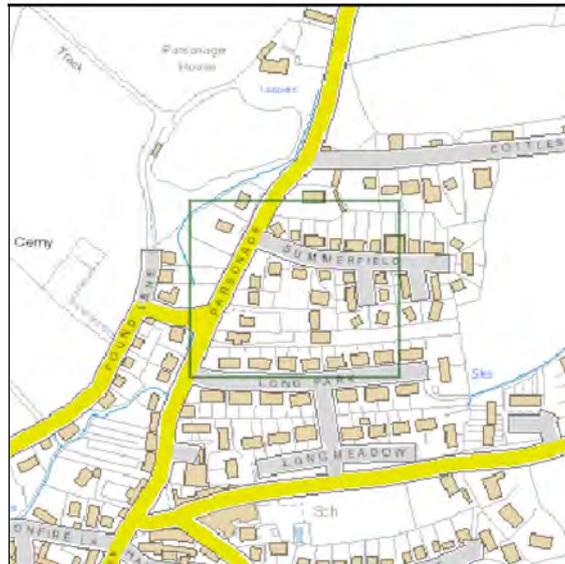
**Ward** Woodbury And Lymptone

**Reference** 16/0582/FUL

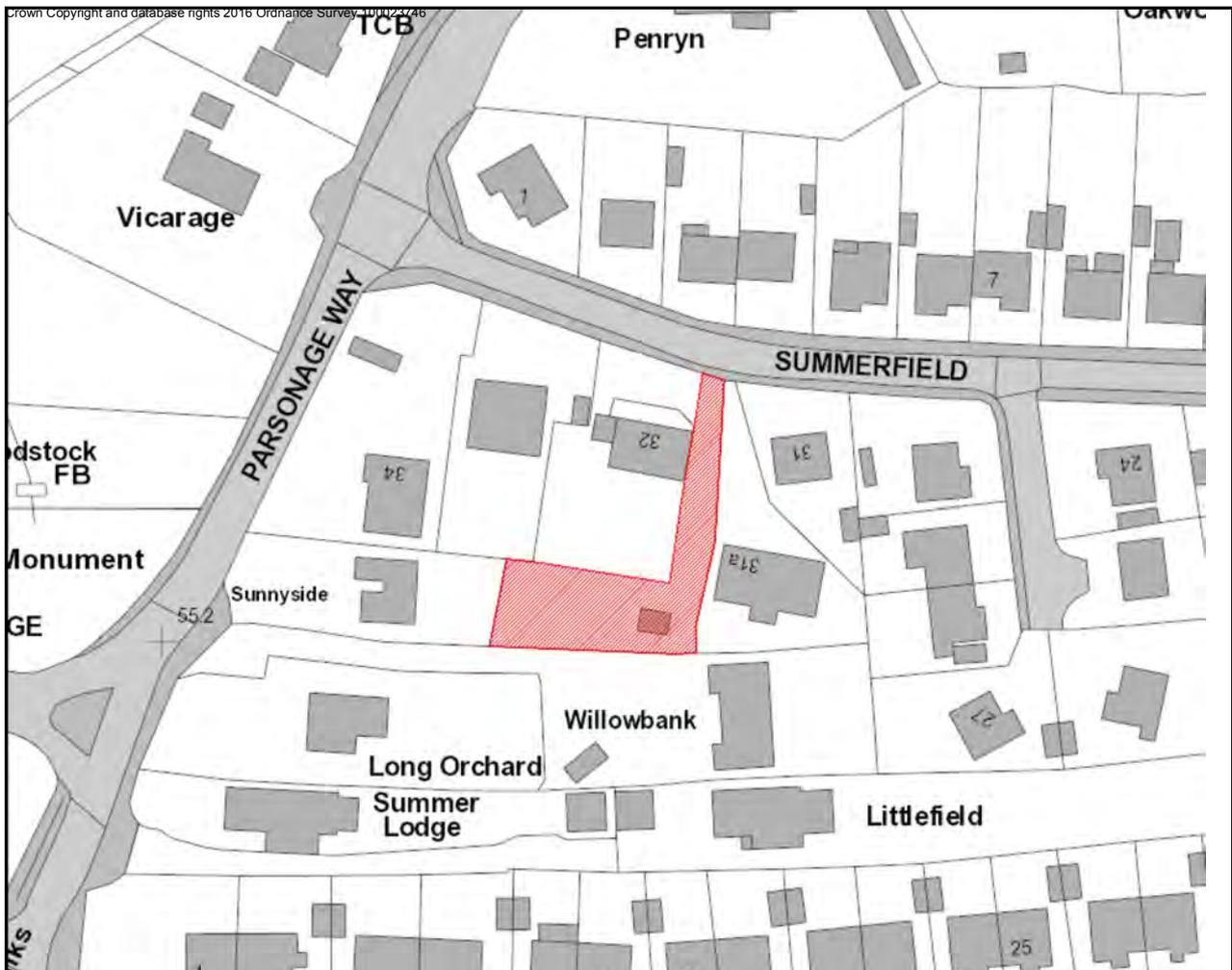
**Applicant** Mrs M J Sangwin

**Location** Pomme D'Or 32 Summerfield  
Woodbury Exeter EX5 1JF

**Proposal** Construction of bungalow



**RECOMMENDATION: Refusal**



		<b>Committee Date:06.12.16</b>
<b>Woodbury And Lympstone (WOODBURY)</b>	<b>16/0582/FUL</b>	<b>Target Date: 12.08.2016</b>
<b>Applicant:</b>	<b>Mrs M J Sangwin</b>	
<b>Location:</b>	<b>Pomme D'or, 32 Summerfield, Woodbury</b>	
<b>Proposal:</b>	<b>Construction of bungalow</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation differ from the view of the Ward Members.**

**Pomme D'or Summer field, Woodbury is a detached bungalow within the built up boundary of Woodbury. It is a residential area comprising detached bungalows. To the south west of the site, is a bungalow 31a Summer field which was approved in 2001 within the garden of Pomme D'or.**

**At the back of the property is the garden to the bungalow which remains from the previous sub-division and forms part of the current garden. It is proposed to construct a further bungalow within the rear curtilage of the host property.**

**The site itself measures around 30m in width by 13m in depth. Whilst within the central area of Woodbury, it is considered that the bungalow would be tightly sited to the northern and southern boundaries. It would be read as back land development. Whilst this is not always unacceptable it is considered that the addition of an additional dwelling on this site would be cramped and represents overdevelopment of the plot.**

**The increased density would be particularly noticeable from adjoining properties, and in terms of the amenity of occupiers of the bungalow the front and rear would face directly onto boundaries. The western elevation would provide the only real outlook and is likely to lead to this area being the only amenity area with increased usage and overlooking. Three separate dwellings would serve the existing single access. Whilst vehicles can now turn and exit in a forward gear, three properties using this access is likely to lead to vehicle conflict which would compound the overdeveloped nature of the site, particularly given the need for the access to pass in very close proximity to Pomme D'or. The application is therefore recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### Woodbury & Lympstone - Cllr R Longhurst

In fill development is supported in the Emerging Neighbourhood Plan so there is no reason to object to this development per-se. Access is a concern

#### Woodbury & Lympstone - Cllr R Longhurst

Supported

#### Parish/Town Council

Support with concerns regarding access to the site.

Further comments 28.09.16:

Support

### **Technical Consultations**

#### County Highway Authority

Highways Standing Advice

#### Natural England

It is Natural England's advice that, as the proposal is not necessary for European site management; your authority should determine whether the proposal is likely to have a significant effect on any European site. If your authority is not able to rule out the likelihood of significant effects, there are uncertainties, or information to clarify areas of concern cannot be easily requested by your authority to form part of the formal proposal, you should undertake an Appropriate Assessment, in accordance with Regulation 61 of the Habitats Regulations, including consultation with Natural England.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>2</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

On the basis of the information provided, Natural England is able to advise the following to assist you with your Habitats Regulations Assessment. Decisions at each step in the Habitats Regulations Assessment process should be recorded and justified:

Further comments 5/10/16:

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 20 July 2016.

The advice provided in our previous response applies equally to this amendment.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

### EDDC Trees

No objection on arboricultural grounds.

### Other Representations

6 letters of representation have been received.

- The proposed access which would be a shared driveway, is very narrow
- Summerfield itself is a dense, residential area of Woodbury and on-street parking is an on-going problem for residents already.
- This results in many residents parking on the pavements and causing difficulties and access problems.
- Any further development in this residential area will only exacerbate the problem
- damage to the environment and the established trees in the proposed development.
- damage to the habitats that protect our wildlife.
- size and position of the proposed dwelling in relation to the size of the plot.
- Concerned over how cars (particularly 5 as the application states) will get in and out of both properties (the existing dwelling and the proposed)
- How they would park i.e would it be in tandem and if so how will they exit the driveway
- We ourselves have a long narrow driveway but have ample turning space and parking.
- It would be better to position the dwelling a little further down the plot to allow for parking and turning of vehicles.
- It seems a little squashed in and over developing the area.
- The proposed dwelling is also quite close to the boundary that divides our property and the proposed,
- If the dwelling was to be positioned further down the plot it would allow more light into the property and would also not be so close to the dividing hedge therefore not damaging the existing natural hedge and trees.
- We have a large Elm tree amongst other trees within the natural Devon bank/hedgerow that divides the two properties and we are concerned that any building work nearby could damage the roots longterm and also effect the wildlife that inhabits them.

- Although the current plans do not include dorma/upstairs windows there is the potential that in the future these could be added and these would then potentially look into a bedroom window and living area at our property
- We overall feel that the proposed dwelling is unsuitable for the area and that infilling in this instance will cause the surrounding roads and area to be congested and dangerous.
- My understanding from the property deeds/ land registry is that the 2 properties share ownership of the access from the road and a triangle of land backing off from the road.
- The base of that triangle forms the access to the road running to a point approximately 8 meters back from the road.
- Notwithstanding the legal right to access and ownership of land, were this application to be successful the driveway would provide the only vehicular access for the occupants of 9/10 bedrooms
- My property 31A was also developed on the gardens of Pomme Dor 32 Summerfield.
- The plans show the proposed new property to be in extremely close proximity to my home
- We are already boxed in and overlooked on three sides and this would complete that process.
- This proposal constitutes an overdevelopment.

## **PLANNING HISTORY**

Reference	Description	Decision	Date
87/P0278	Construction of bungalow on adjoining land	Refusal	31.03.1987
01/P1468	Erection of bungalow	Approval	17.09.01
02/P0062	Erection of detached bungalow	Approval	07.03.02

## **POLICIES**

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

D1 (Design and Local Distinctiveness)

Strategy 6 (Development within Built-up Area Boundaries)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

### Site Location and Description

Pomme D'or Summer field, Woodbury is a detached bungalow within the built up area of Woodbury. It is a residential area comprising detached bungalows. To the

south west of the site, is a bungalow 31a Summerfield which was approved in 2001 within the garden of Pomme D'or.

At the back of Pomme D'or is the garden to the bungalow which remains from the previous sub-division. It slopes gradually downhill in a westerly direction towards the rear garden of 33 Summerfield, and beyond that and facing the site is 34 Summerfield and "Sunnyside". To the south of the site and separated by a hedge is "Willowbank".

The garden has a number of levels created through patio areas, and several sheds and ornamental trees.

## **ANALYSIS**

The proposal seeks the subdivision of the remaining rear garden to provide a bungalow. It would have dimensions of 12.6m in width by around 8.6m in depth and 5m in height.

Amended plans have been received which show a car parking space and turning head. It would utilise the existing drive to Pomme D'or which shares an access point with 31a Summerfield. The access would pass the entrance to Pomme D'or.

The main issues for consideration are the compatibility of the development with the site and surrounding area, neighbouring amenity, wildlife and tree impact and highway safety.

### Impact on character and appearance

The proposed bungalow would be set at the rear of the existing property. The site itself measures around 30m in width by 13m in depth.

Whilst sited at the rear, the bungalow would be tightly sited to the northern and southern boundaries. It would be sited 1.2m from the southern boundary, 4m from the northern, and 9m from the west.

It is considered that the bungalow would occupy much of this site and would be read as back land development. Whilst this is not always unacceptable it is considered that the additional dwelling on this site would be clearly discernible by the addition of the comings and goings to the back land site, additional activity and greater sense of enclosure to surrounding occupiers.

It is considered that this proposal would represent over development of the site, which, even dug down, would be discernible to surrounding occupiers. In terms of the amenity of occupiers of the proposed bungalow the front and rear would face directly onto boundaries providing a poor outlook and standard of amenity. The western elevation would provide the only real outlook and is likely to lead to this area being the more heavily used than existing resulting in a detrimental impact upon adjoining residents, or at the very least an increased perception of overlooking. Policy D1 of the Local Plan says that proposals should not adversely affect the

amenity of occupiers of adjoining residential properties and the amenity of proposed future residential properties. This is supported by a key principle in the NPPF.

The plot has already been sub divided once to create 31a Summerfield, and the result would be that three separate dwellings would serve the existing single access. Whilst vehicles can now turn and exit in a forward gear, three properties using this access is likely to lead to some vehicle conflict. Whilst in itself this may not be harmful enough to justify refusal of permission, it adds to the justification that the proposal is overdevelopment, particularly when combined with the access passing in very close proximity to the door to Pomme D'or and the front of number 31a with its associated domestic noise and disturbance through an unusually close relationship.

Taking all of these issues together, it is considered that a proposal for a further bungalow in this location would represent overdevelopment of the site with subsequent detrimental impact upon future occupiers and surrounding residents.

#### Highway safety

The highways authority has advised that the application would fall under standing advice. In assessing the proposal the turning head would comply with the criteria laid out in the advice.

#### Trees

There are a number of ornamental trees on the site, but the trees officer has not raised any objections.

#### Ecology

The site is within 2km of the East Devon Pebblebed Heaths SAC and SPA and within 4km of the Exe Estuary. It is therefore within 10km zone within which impacts of residential development on the aforementioned sites could reasonably be expected to arise in the absence of appropriate mitigation.

In this case the Community Infrastructure Regulations would cover this point.

In this regard the Community Infrastructure Levy Additional Information Form has been received and will be used to inform liability for CIL payment to mitigate the impact of the development.

Natural England advises that there will be no additional impacts on the features of interest of the SSSI sites resulting from the development beyond those identified above

### **RECOMMENDATION**

REFUSE for the following reason:

1. The proposed development by virtue of its cramped layout, plot size and dimensions, intensification of the site access and its relationship to the

neighbouring properties, would amount to an overdevelopment of the site to the detriment of the character and appearance of the area and amenity of surrounding residents whilst failing to provide adequate levels of amenity to prospective occupiers. It is therefore considered to be contrary to the requirements of the Adopted East Devon Local Plan and Strategy 6 (Development within Built up Area Boundaries), Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan and the NPPF.

#### 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 listed building concerns have been appropriately resolved.

##### Plans relating to this application:

1968 SPR	Proposed Site Plan	14.09.16
	Location Plan	07.03.16
DRG – 1968	Elevations and Floor Plans	07.03.16

##### List of Background Papers

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