

Ward Woodbury And Lymestone

Reference 18/2589/MFUL

Applicant Mr Luke Salter (Salter Property Investments)

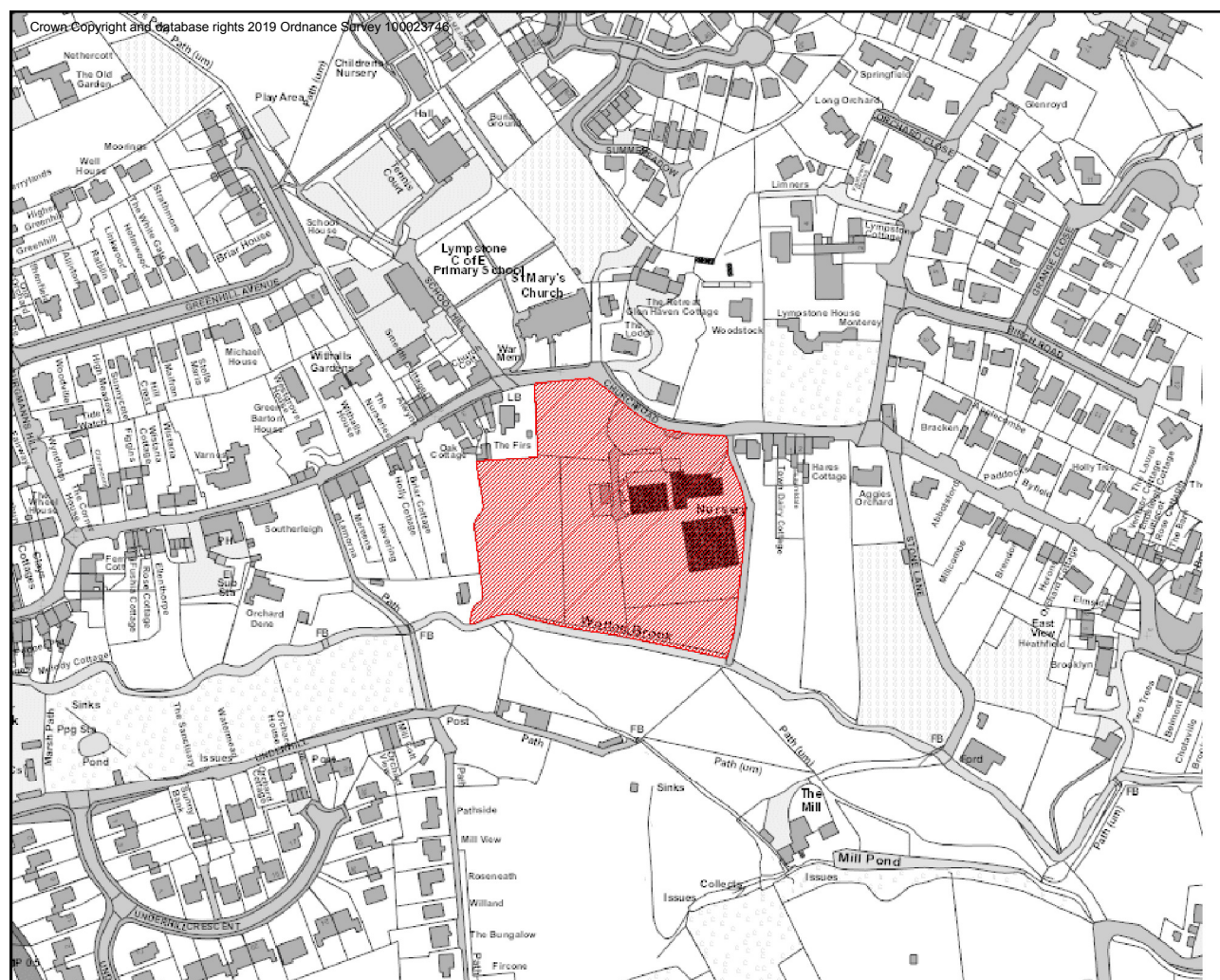
Location Lymestone Nurseries Church Road Lymestone
Exmouth EX8 5JU

Proposal Demolition of existing polytunnels/greenhouses and erection of 10 dwellings, public open space and a car park for use by the church



RECOMMENDATION:

1. That the Habitats Regulations Appropriate Assessment attached to the Committee report be adopted.
2. That the application be **APPROVED** subject to a S106 agreement and conditions.



		Committee Date: 30th April 2019
Woodbury And Lympstone (LYMPSTONE)	18/2589/MFUL	Target Date: 19.02.2019
Applicant:	Mr Luke Salter (Salter Property Investments)	
Location:	Lympstone Nurseries, Church Road, Lympstone	
Proposal:	Demolition of existing polytunnels/greenhouses and erection of 10 dwellings, public open space and a car park for use by the church	

RECOMMENDATION:

1. That the Habitats Regulations Appropriate Assessment attached to the Committee report be adopted.
2. That the application be **APPROVED** subject to a S106 agreement and conditions.

EXECUTIVE SUMMARY

This application is before Members because it is a departure from the Local Plan (LP) and the Lympstone Neighbourhood Plan (LNP).

The Lympstone Nurseries site is allocated for 6 houses in the Lympstone Neighbourhood Plan which has been 'made'. The application is a departure from the LP and LNP because part of it would be located outside of the built-up area boundary of the village on land to the south and west of the former nursery site and because the proposal is for 10 dwellings and not the 6 dwellings for which it has been allocated.

The site is occupied by glass houses and poly tunnels from its former nursery use and an open field immediately to the west of this and forms a very prominent open-space within the village which contributes to the diversity, distinctiveness and character of the conservation area and the setting of heritage assets which includes the grade II* listed church to the north. This is an important space within the settlement, and as such it is acknowledged that the site is very sensitive to change.

Concerns from Historic England about the encroachment of development into the rural space beyond the confines of the existing nursery which is an important element of the grade II* listed church's setting have been carefully considered and addressed through amendments to an extent that officers are satisfied that that the less than substantial harm to the setting of heritage assets has been clearly

and convincingly justified (Para 194, NPPF) and that there are sufficient public benefits to outweigh the resulting harm caused by the small encroachment of development into the rural setting of the church, which forms an important open green space within the conservation area.

These public benefits include the provision of the large area of public open space, the provision of church car parking, the footpath links to link into existing public rights of way which will improve permeability and connectivity of the site with parts of the village, provision of new housing, coupled with the removal of the existing buildings which detract from the character and appearance of the site and the surrounding area.

The proposal is considered to be policy compliant in respects of its impacts on residential amenity, ecology, biodiversity and arboriculture, affordable housing highway safety, archaeology, flood risk and drainage.

Whilst finally balanced, and recognising that the proposal is a departure from the Local Plan and the Neighbourhood Plan because part of it would fall outside of the BuAB of the village within the Green Wedge, and would exceed the housing allocation within the LNP, it is considered that the benefits of the scheme and the comprehensive, high quality redevelopment of the site on the former nursery buildings would outweigh the limited harm that would arise from the proposal.

The application is therefore recommended for approval subject to conditions.

CONSULTATIONS

Local Consultations

Woodbury & Lympstone - Cllr R Longhurst

The amendment to the plans removes much of the development proposed off the greenhouse site and on the green wedge. I very much approve of this action and fully support the revised plan.

Further comments:

My previous coment has caused some confusion. I fully support this amendment as it reduces some of the additional development in the Green Wedge area which was my only concern in the first plan.. The inclusion of this land in the NDP was an intentional act of the Community to protect the view from the Church in perpetuity. This development does just that and arguements about the exact location of boundary lines is somewhat nebulous since at the time we did not have the services of a surveyor or the benefit of detailed plans. I am delighted for our Community that after all this time we have a result we can be proud of.

Parish/Town Council

18/2589/MFUL

Demolition of existing polytunnels /greenhousesand erection of 10dwellings ,public open space and a car park for use by the Church at Lympstone Nurseries.

Support in principle.

This site is allocated for housing in the Neighbourhood Plan. It was assessed in the 2011 SHLAA as having the capacity for between 11 - 19 dwellings. No detailed study of the type now undertaken was made before the allocation for 6 houses was included in the Neighbourhood Plan. The figure of 6, together with other allocated sites, added up to the 40 dwellings required by the then EDDC draft local plan. The text makes clear that there would be an opportunity to develop the site for up to 9 dwellings subject to a development brief and consultation. The developers commissioned 4 architects to prepare design briefs for the site. These all illustrated how it would be possible to accommodate 10 dwellings within the area currently occupied by greenhouses and polytunnels. The Council is supportive of the provision of 10 houses, one more than was envisaged in the Neighbourhood Plan.

The greatest concern is that the scheme only includes 1 3bed dwelling with the others being all 4 bed dwellings. Policy 4 of the Neighbourhood Plan clearly sets out the particular need in the village for affordable housing, two and three bedroom family homes and single storey homes adapted for the elderly. While affordable housing may not be able to be provided due to viability issues the Council would like to see some smaller dwellings or even a couple of flats adapted for older people provided within the scheme.

The applicant's Design and Access statement is an excellent analysis of the existing character of the village and demonstrates how this has informed the design of the scheme. The proposals show how the important views from the Church towards the Mill will be preserved and a new village street created. The dwellings have pitched roofs and make extensive use of traditional materials, a mixture of natural slate and clay tiles for the roofs, render and brickwork for the walls. Agreement is needed on the exact pattern of use of these materials and also the colour of the ppc aluminium windows. Unlike most of the recent development in the village their design accords with the principles set out in Policy 7 of the Neighbourhood Plan. In design terms the least successful elements of the scheme are the 3 large detached properties at the southern end of the site.

The Neighbourhood Plan (Policy 17) also requires the provision of a new 'village green'. The western half of the site has been designed to provide a simple open green space with a small discretely sited parking area for occasional use by the Church. The attenuation pond needs to be carefully designed so that it is integrated into the proposed lower meadow area. The Council considers that the scheme will provide an attractive area of public open space. Being brought into public ownership will ensure that this green area is not subject to pressure for further infill development. The two parking spaces for the development are an unfortunate intrusion into this space and should be re-located within the housing development.

The development is likely to increase traffic using the main route into the village, a road which is only single carriageway width in places, with a number of pinch points. The Council welcomes the provision of a new footpath inside the boundary wall which will enable pedestrians to avoid walking around a blind bend in the road. This section of road has no footway and is a route used by parents and children going to school. The wall should be retained at its existing height (the preliminary highway and levels plan PHL-101 shows it being reduced in height around the entrance to the site) and repaired.

The site is in a sensitive position in the Conservation Area, opposite the Church. The Heritage Impact Assessment concludes that in most respects there will be significant conservation gains. The removal of the unsightly nursery buildings and their replacement with a well-designed group of houses together with the new public open space will enhance the character and appearance of the village which outweighs the loss of some of its rural character.

The developers are to be commended on the extensive consultations carried out on the proposals prior to the submission of the application. The scheme received generally positive support from these consultations.

Further comments:

05/04/19 Support

These amended plans meet most of the concerns outlined in the Council's earlier comments.

The Council is disappointed that there are still no affordable or smaller properties in the scheme as sought by Policy 4 of the Neighbourhood Plan.

It is recognised that the development extends beyond the built up area boundary (BUAB) in the Neighbourhood Plan. In most instances the BUAB follows existing property boundaries but in this case it simply follows a rather arbitrary line across the site reflecting the original submission to the SHLAA process. The amended scheme does not extend as far beyond the BUAB as the original scheme. The dwellings are all within the area which has existing structures on it. The whole site extending to the Brook is also identified by EDDC as 'brownfield land'. It is government policy to encourage the re-development of such land (NPPF para 118). The revised scheme now provides additional land for public open space adjacent to the Brook. This will provide a pleasant route to join the footpath to the East and soften the view of the development from Mill Field. Care has been taken to provide a green boundary to Plots 8-10 rather than a standard boarded fence.

The Council considers that the benefits of this carefully designed scheme outweigh the encroachment of the development beyond an arbitrary boundary line and meet the aspirations for the area expressed in the Neighbourhood Plan Policy 17.

Technical Consultations

County Highway Authority

Observations:

The site is situated off Church Road, the C224.

The development will allow for the improvement of the access visibility splay with a new access wall no higher than 600mm.

Each new dwelling will have two dedicated off-carriageway parking spaces therefore reducing the likelihood of an impact upon the local highway network, the site will also include two footway accesses for integrity to the surrounding sustainable network.

I do not believe the number of additional dwellings from this proposal will cause an unjust impact on the local highway network. Therefore the County Highway Authority has no objections to raise as part of this application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT.

Housing Strategy Officer Melissa Wall

This site lies partially within the built up area boundary for Lypstone and is allocated in the Lypstone Neighbourhood Plan for small scale housing. The application is for 10 dwellings and is therefore a major development. Under strategy 34, 50% (5 units) should be provided as affordable housing.

The applicant has submitted a viability assessment claiming that the site cannot support the provision of affordable housing, although it is not entirely clear from the report the reasons why. The Council will appoint an external consultant to review the viability assessment.

Regardless of the viability argument, the applicant is also claiming that Vacant Building Credit should be applied. To support the re-use of brownfield land, where vacant buildings are reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. This should be equivalent to the existing gross floorspace of the existing buildings. The planning officer has confirmed that they support the application of VBC on this site. Therefore based on the floor areas provided in the planning application where the existing buildings amount to 2,400 sq. m and the proposed floor area is 2,670 sq. m the resulting requirement would be to provide 0.5 units of affordable housing. As it is not possible to provide 0.5 units on-site a commuted sum would be required and this would amount to £23,248. If the floor areas stated above change then this will affect the calculation of the credit to be applied.

EDDC Trees

No objection to the principle of the proposed scheme.

Should the application be approved we will require the following additional information and minor adjustments:

- i) Point 4 of the arboricultural method statement need to make it explicit that the tree protection fencing will be in place prior to the commencement of any works on site.
- ii) Can the northern path around the principle oak (T1) showing in the hard landscape plan be moved further towards the road to completely avoided the root protection area of this tree.
- iii) We will need the arboricultural method statement and tree protection plan to be amended to included the construction of the northern most footpath around the oak (T1).

iv) Any approval would need to be subject to the submission of a soft landscaping plan to include the planting of trees and shrubs.

vi) Tree T5, Group 1, Hedge 1 and Area 1 whilst shown as retained within the Arboricultural report this is not the case for other submitted details.

I am happy to provide draft conditions when required.

Further comments:

02/04/19 No objection to the proposed scheme subject to the following conditions:

Tree protection

Prior to the commencement of the development hereby approved (including demolition and all preparatory work), an amended scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) The existing AMS and TPP shall be amended to reflect the approved site plans.
- b) Location and installation of services/ utilities/ drainage.
- c) Details of footpath construction to the north of the retained Oak (T1).
- d) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- e) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires (horticultural pruning waste).
- f) Boundary treatments within the RPA of retained trees.
- g) A complete specification of any tree or hedgerow pruning works
- h) Provision made for arboricultural inspection and supervision of all tree protection measures. Including the reporting of inspection findings to the local planning authority. Arboricultural inspection and supervision shall include pre-commencement sign off, of installed tree protection measures, ad-hock monthly site inspections and final approval for removal of tree protection measures.

The development thereafter shall be implemented in strict accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2016 and pursuant to section 197 of the Town and Country Planning Act 1990

Informative:

The following British Standards should be referred to:

- a) BS: 3998:2010 Tree work - Recommendations

b) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations

Tree Planting

Prior to commencement of any works on site (including demolition and ground works); full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works or five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Policies D1 - Design and Local Distinctiveness, D2 - Landscape Requirements, D3 - Tree and Development Sites of the East Devon Local Plan 2016.

Informative:

The following British Standards should be referred to:

- a) BS: 3882:2015 Specification for topsoil
- b) BS: 3998:2010 Tree work - Recommendations
- c) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
- f) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h) BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations
- i) BS: 8601:2013 Specification for subsoil and requirements for use

EDDC Landscape Architect - Chris Hariades

1 INTRODUCTION

This report forms the EDDC's landscape and green infrastructure response to amended information submitted in relation to the above application.

The report provides a review of amended landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

2 REVIEW OF ADDITIONAL INFORMATION PROVIDED

Generally the amended layout is acceptable in terms of landscape design and impact.

The following matters require further design consideration and/ or clarification:

a) The key in the General Arrangement plan, drawing no. 18-180-C-200 Rev E, indicates the dark green colouring on the plan as 'Proposed marginal'. This appears to be an error and should be checked with the applicant.

b) The proximity of the garages to plot nos. 7 and 10 to the eastern boundary hedge is of concern and it is difficult to see how the garages could be constructed without causing damage to the hedge which is identified in the ecological assessment as species rich. The garage positions/ dimensions should be amended to provide a 1.5m clearance from the face of the hedge.

c) In order to protect the future integrity of this hedge, which abuts Lympstone footpath 1, a 1.5m high post and rail fence should be provided along the development side of the hedge line to denote the adjacent plot boundaries, with the hedge itself remaining within the ownership of the management company or other body responsible for managing the public open space within the development.

d) The General Arrangement plan, dwg. no. 18-180-C-200, shows the access to the church path being controlled by two bollards at the entrance. In practice this is a cumbersome arrangement and a suitable timber boom gate of the type shown below would be easier to manage.

e) A statement should be provided by the applicant as to how access to the church car park will be managed.

f) The proposed tree and planting strips between parking bays within the proposed church car park are unfeasibly narrow and will be prone to vehicle overrun and damage. A single block of planting 2.5m wide in the centre of each run of parking bays would provide a more robust and sustainable solution.

3 LANDSCAPE CONDITIONS

Should the application be approved the following landscape conditions should be included:

1) No development work shall commence on site until the following information has been submitted and approved:

2)

a) A full set of hard landscape details covering earthworks, walls, retaining structures, fencing, pavings and edgings, site furniture and signage.

b) Details of existing and proposed levels and drainage scheme incorporating appropriate SuDS features, maximising opportunities for rainwater collection, reuse, attenuation and filtration within the site.

c) Details of locations, heights and specifications of proposed external lighting.

d) Samples of proposed gravel finishes to paths and roads.

e) A full set of soft landscape details including planting plans showing locations and number of new tree, shrub and herbaceous planting, type and extent of new grass areas, existing vegetation to be retained and removed and means of protection.

f) Plant schedule indicating form size and density of planting.

g) Specification for soil quality, cultivation, planting/ sowing, mulching and means of plant support and protection during establishment period.

h) Measures for protection of existing perimeter trees and hedgerow during construction phase in accordance with BS5837: 2012. Approved protective measures shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

2) In addition, the following standard EDDC landscape conditions should apply:

L01N, Landscaping - full permissions

L02N Landscaping - groundworks

L06N Landscaping - fences and boundaries

L11N Landscaping - landscape management which should include the following details:

- o Extent, ownership and responsibilities for management and maintenance.

- o Details of how the management and maintenance of open space will be funded for the life of the development.

- o Inspection and management arrangements for existing and proposed trees and hedgerows.

- o Management and maintenance of grass areas.

- o Management and enhancement of biodiversity value.

- o Management and maintenance of any boundary structures, drainage swales and other infrastructure/ facilities within public areas.

L15N Landscape condition for full planning permissions (omitting non relevant parts/sections)

EDDC Conservation

CONSULTATION REPLY TO PLANNING WEST TEAM

PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION AREA

ADDRESS: Lympstone Nurseries, Church Road, Lympstone

GRADE: APPLICATION NO: 18/2589/MFUL

CONSERVATION AREA: Lympstone

PROPOSAL: Demolition of existing polytunnels/greenhouses and erection of 10 dwellings, public open space and a car park for use by the church

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

The proposed site lies within the historic centre of Lympstone, within the conservation area and is situated opposite St Mary's Church, grade II*. On the south side of Church Road are two terraces of properties flanking the site, the majority of which are grade II listed. The significance of these heritage assets are certainly contributed by their setting, and the ribbon development of the village forms part of the distinct and strong character in this part of Lympstone. Properties tend to be positioned directly on the rear of the highway and undeveloped land is enclosed by stone walls. The most prevalent aspect of the site is its openness with views from Church Road towards Waddon Brook and return views of the church from the public rights of way that border the site.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

The site occupied by the former nursery and the field immediately to the west of this form is a very prominent open-space within the village and this certainly contributes to the diversity, distinctiveness and character of the conservation area. This is an important space within the settlement, and as such the site is very sensitive to change.

There have been several previous responses relating to development on the site under 14/0098/PREAPP & 15/0220/PREAPP and more recently under 17/0244/PREAPP. The issues remain the same from a heritage perspective including the location of the site within the centre of the Lympstone Conservation Area, the setting of the Grade II* Church and the Grade II terraces flanking the site and the character of this part of Lympstone (ribbon development). as already suggested this is a prominent and sensitive open site with views across to rural fields and the brook to south.

Following the latest pre-application advice the current application for residential development of 10no. dwellings has now been submitted. Both the pre-application submission and the application show a good understanding of the site and its importance within Lympstone and this has been supplemented by a Statement of Significance and Heritage Impact Assessment in conjunction with other relevant information regarding the site. In addition, the applicants have carried out extensive consultation and interpretation of the site.

The removal of the Nursery buildings and paraphernalia is welcomed and will significantly improve the appearance of the Conservation Area. However, to develop the site for some level of housing, public open space and a car park, the emphasis must be on the impact that this will have on the Conservation area and the adjacent listed buildings including the Grade II* Church. Detailed comments and points of concern have been already been raised by Historic England and the Landscape Officer and these views are noted by the Conservation Team. In particular, the heritage issues relate mainly to the car parking and the development itself.

Car parking: the overall concerns from Historic England are re-iterated and the re-location of the car park would certainly be an acceptable alternative. All parking should be limited to the eastern side of the site and within the development itself. Proper screening and surface materials will be crucial;

Development: if the principle of development is considered to be acceptable it would have been preferable for the pattern of development to follow the line of the main road more closely. The scale of the properties is too large and a terrace or semi's would be better, similar in design to the two new properties (Pebbles & Meadow Gate). This would allow for the integrated garages referred to by HE, better continuity and a closer density to give the character afforded either side of the new development and to lose the 3no. large detached dwellings to south of the site. The separate detached garages to these three Units 8, 9 & 10 only amplify the fact that they are out of keeping with the overall character and appearance of the site and the more closely knit proposed development to the north of the site. Flat roof garages are also rather incongruous features eg. Unit 7, Unit 1, Unit 9 etc. These should be less remote from the Units.

Design: whilst a contemporary take for the design is acceptable, the dwellings appear out of scale with their surroundings and further consideration should be given to reducing their size, altering the ratio of void to solid (placement of openings). In addition, the size of some of the openings and the features eg. dormers are too large, further division of rooflights needed.

Conclusion: there is no doubt that the removal of the Nursery buildings is an improvement and that the new development will certainly have an impact on the setting of the heritage assets and the overall character and appearance of the site and wider Lympstone Conservation Area. It is agreed, as stated in the Impact Assessment (Section 10) that the development will have a significant effect on the character of the existing space. However, only if all aspects of design, layout, landscaping, materials etc are of a high standard can it offer positive change and benefit.

Further comments on amended plans received 19th March 2019:

The amended plans seek to address the concerns raised by the various consultees. The following comments relate to the previously raised heritage issues:

Car parking: it is noted that the 'Church parking' is retained in the same location. To minimise the impact, proper screening and surface materials will be crucial. It is also noted that there are a number of bollards restricting access to the parking. Would traditional gates be more appropriate in some of the locations? However, the remainder of the parking associated with the development has been removed from the western side of the site and is now contained only within the eastern side of the site within the development itself, and this is welcomed;

NB. the Table showing the number of parking spaces appears to have some anomalies, in particular the spaces for Unit 1 & 2, where no1 is parked in front of No. 2. In addition, all Units appear to have 3 spaces rather than two.

Development: some minor changes have been made to the dwellings fronting Church Road, but their actual size, location/siting remains practically the same. The garage and parking spaces to Unit 1 have been re-located and some re-arrangement of fenestration is noted. Again, changes to Units 5, 6 and 8 are minimal, but notable is the re-location of the garages to Unit 6 and 8 creating a more attractive frontage to the open space within the site.

The 3no. large detached dwellings to south of the site remain, but the separate detached garages to these three Units 8, 9 & 10 have been re-located towards the front of the plots within close proximity to the built form of the individual dwellings. This provides a better relationship for the Units and wider development and allows a more attractive and open garden space to the rear of the 3no. properties. Additional landscaping along the southern edge reinforces this part of the layout.

Design: only minor change appear to have been made to the elevations and the dwellings remain the same in terms of size and scale. However, the development as a whole is a tighter group (mainly within the scope of the existing buildings on site - see Drawing PL 1.3) having incorporated all of the Unit parking within the overall built form group and relocating the garages. Additional planting and screening will hopefully create a feeling of spaciousness.

Unit 5 now has further differentiation as it turns the corner and appearing as two elements (units) rather than one. Unit 8 is now to be a slate roof rather than zinc roofing. These are all welcomed. There is no objection to a contemporary approach to the development. However, there is still some concern over the style of fenestration: placement of openings, size of dormers and plain glazed rooflights. Full details of these along with materials by condition will hopefully allay further concerns;

Conclusion: there is no doubt that the removal of the Nursery buildings is an improvement and that the new development will certainly have an impact on the setting of the heritage assets and the overall character and appearance of the site and wider Lympstone Conservation Area. It is agreed, as stated in the Impact Assessment (Section 10) that the development will have a significant effect on the character of the existing space.

The amended plans have made a number of significant changes to the parking arrangements and the form of the development group. The next step will be to ensure that materials, detailing (eaves and verge details, chimneys, placement of flues, vents, meter boxes etc, fenestration, dormers, joinery etc) and landscaping, are conditioned and that a high quality and appropriateness to the site in Lympstone is agreed.

The site is in a sensitive location in the Conservation Area, opposite the Church. The removal of the nursery buildings and their replacement with a high quality residential development scheme together with the public open space will enhance the character and appearance of the village and whilst inevitably the existing open nature of the site will be altered this will need to be weighed against any conservation gains and the wider public benefit.

Devon County Archaeologist

I refer to the above application and your recent consultation. The proposed development lies within 50m of the parish church of St Mary, a grade II* listed building (ref: 1165089) and, as such, I would advise that the Planning Authority's Conservation Officer and Historic England are consulted with regard to any comments they may have on the impact upon the setting of this designated heritage asset.

The following comments are made without prejudice to any comments made by the Conservation Officer or Historic England.

The archaeological investigations undertaken in support of this planning application have demonstrated that the site contains archaeological deposits associated with the medieval and post-medieval occupation of this part of the historic village. Artefactual material also indicates the potential for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed development will expose and destroy archaeological and artefactual deposits associated with these heritage assets. While these heritage assets are not of such significance that the Historic Environment Team would recommend preservation in situ, I would advise that the impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team therefore recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, 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 developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in 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 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of all areas affected by the proposed development that may contain archaeological or artefactual deposits to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken - including the analysis and dating of palaeoenvironmental samples taken during the field evaluation of the site - would need to be presented in an appropriately detailed and illustrated

report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also 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. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Historic England

LYMPSTONE NURSERIES, CHURCH ROAD, LYPMPSTONE, EXMOUTH, EX8 5JU
Application No. 18/2589/MFUL

Thank you for your letter of 21 November 2018 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

The Nursery site in Lypmpstone has been identified in the adopted Neighbourhood Plan as a site suitable for development. The allocation is for the current nursery site retaining significant areas of open space around it. In the Neighbourhood Plan, the site is identified for 6 units with an opportunity for that to be increased to 9 following a development brief.

The current proposal is for 10 units located on the eastern half of the site. Two units sit outside the site allocation, 06 & 08 as well as the gardens of 09 and 10. The other proposed development that falls outside the allocated site is the car-park to the west of the open field along with the proposed access track. There is also an attenuation pond to the south of the open land.

The site is within the Lypmpstone Conservation Area and the setting of the grade II* listed Parish Church of the Nativity of the Blessed Virgin Mary. These form the focus of Historic England's statutory remit. In terms of the built form within the conservation area, this has a tight grain with many of the buildings nestling together to form small scale and intimate spaces that reinforce the linear nature of the site. This section of the conservation area is identified as having a looser grain. However, this relates to the large plots on the north side of the road and the site itself is bound by rows of terraced cottages to the east and a cluster of buildings to the west, which both reinforce the linear character of the settlement.

The church sits to the north of the site in an elevated position, affording views of the current rural landscape that separates the two main blocks of development within the conservation area. The rural open character of the field is an important part of the church's setting. It creates a strong contrast with the defined linear and tight grained character of Lypmpstone to provide the church with a sense of primacy and prominence within the settlement. The views out of the church are a clear reminder of the village's rural origin as well as providing an aesthetic quality to the experience of place,

especially with the prominent tree within the field that helps to frame views through to the rising pasture land beyond.

Historic England has two main areas of concern. This is the impact of the car-park and proposed access track to the west and the encroachment of the housing into principal views to the rural landscape from the church.

In terms of the encroachment of development, the current views out from the church are framed by a substantial tree leading views through to the rural landscape beyond. The current site is tucked behind the tree and does not impinge on these open views. The application looks to bring the development west (units 3, 6 & 8) and extend it beyond the current extent of the poly tunnels. This will introduce development into this view and alter its current rural experience.

In our view steps needs to be taken to minimise the introduction of development into this view. The frontages of the units on to the green should be set back from their current location, moving them further to the east. This will reduce the encroachment of development into the green and open landscape, a key aspect of the church's setting. The garage of number 8 is an intrusive feature and rather prominent in these views. This should be relocated. Furthermore, parking associated with the residential development should be removed from the open space and accommodated within the existing site boundary. This will allow for the development to reduce its overall impact on the views, and allow the green open space to retain a sense of primacy rather than feeling encroached upon by the proposed new dwellings.

The other aspect that raises concern is the car-parking. Its location and choice of materials have looked to minimise its impact on views from the church. We are wary over the use of proposed material choice as it is reliant on the level of use and the time allowed for the grass to establish itself. The other aspect to consider is the introduction of the road. A cross section has been provided that creates a haka arrangement that looks to screen the track in views. However, the church is elevated and offers views from a higher vantage point. We appreciate that the approach is for a low key access and details of this should be provided to demonstrate how this will be achieved and managed in the long term. If the council are satisfied by the justification provided for the car-park in this location then they should seek further steps to avoid and minimise the impact of the development, through amendments to its layout as well as use of boundary treatments to provide natural screening (Para 190. NPPF).

The council may wish to explore alternative layouts in order to rationalise development. One option could be to replace unit 8 with the car-park. This would negate the need for a road access across the site and locate low density development adjacent to the allocation boundary. This will reduce the number of units within the site but there is potential to increase the density of development, varying the scale and massing of the new units within the body of the current layout. There are limitations to this option including the distance from the church and possible lack of natural surveillance. There is also likely to be an issue with viability that the council will need to consider along with other points within the wider planning balance (Para 196, NPPF).

In terms of the approach taken in designing the Lymptone Nurseries development, it has avoided creating a cul-de-sac and has continued the linearity of the settlement as

well as providing active frontages to the open green space. We would prefer the garages along the Church Road elevation to be included to reinforce the strong boundary created in the village. At present, they break up the rhythm of the façade through the single storey flat roofed sections. The general design approach is contemporary but retains a vernacular quality that will allow the buildings to sit within the conservation area. We would suggest that further consideration is given to the layout of windows. For example, the overall arrangement in unit 3 appears inconsistent with the rhythm seen within the conservation area. Furthermore, the size and scale of the dormers also needs consideration as they appear fairly significant additions within the roofscape (Para 200).

Recommendation

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Further comments 04.04.19:

Thank you for your letter of 19 March 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

Thank you for consulting Historic England on the amendments to the proposals at the Lymptone Nursery site. Historic England's interest lies in the contribution of this site to the Lymptone Conservation Area and the setting of the grade II* listed Church of the Nativity of the Blessed Virgin Mary.

In our previous advice, we raised concerns regarding the encroachment of development into the rural space beyond the existing confines of the nursery development, which is an important element of the grade II* listed church's setting and an important open space within the conservation area. We also had concerns regarding the introduction of the church car-parking and access road into the currently undeveloped section of the site. We raised the question regarding alternative alignments and the need to reflect the character of development on the site.

The revised drawings have looked to address some of these concerns through some minor amendments to the positioning of the buildings and the rearrangement of parking on the main development site. The significance of the heritage assets and the contribution made by its setting to that significance is set out in our earlier advice, so we do not intend to repeat that here. Consequently, we would like to make the following comments on the revised aspect of the proposals.

Encroachment into development

Historic England's concern relate to the encroachment of development into the green rural landscape that is clearly delineated by the prominent oak trees in views from the church.

The amendments have made some improvements through the relocation of the garage at No. 8 as well as the increased band of parkland along the southern boundary.

It would appear that some steps have been taken to rationalise the parking on the nursery side of the application site. The master-plan suggests that this has been reduced to 2 spaces per unit, while the plan seems to indicate 3 spaces for each unit. Clarification on this point is required.

It is unfortunate that as part of these minor alterations to address the concerns raised by Historic England, further changes have been undertaken, notably the reorientation of unit 5, that actually results in the buildings being more conspicuous in the more sensitive area of the site. The proposals now bring Unit 5 and the road closer to the oak tree. This will consequently, result in development appearing more prominently in views from the church and conservation area due to its position being brought forward. It is not clear the reasons for this amendment but it does raise concerns about the impact of the development on the heritage assets.

We are disappointed that further steps have not been taken to set the frontages of units 5 and 6 further east, so that they more closely align to the location of the existing buildings on site. There is an opportunity through the loss of the garage of No. 5 to move the development back by several metres, so that it creates the impression of a terrace with no. 3 and shifts the development further east. The unit would still have 2 parking spaces as seen to the south of the house but would be less conspicuous in views from the church. Unit 6 could also be set back as its garden is primarily located to the south. Unit 8 may need to be rationalised further in order not to project forward; however, with these steps undertaken the entire development would be more closely aligned to the existing nursery buildings on the site ensuring that the contribution of the green open space is maintained.

Church Parking

We maintain our concerns regarding the car park due to the introduction of permanent infrastructure into the rural open space in front of the church. The council need to ensure that the layout seeks to minimise the level of intervention and sufficient screening should be in place in order to screen the site using appropriate boundary treatments. The choice of materials and the overall treatment of the road and car-parking area are paramount and should be agreed with the conservation officer.

Management of the site

The management of this site needs to be secured through the planning process to ensure that the proposed low level intervention is maintained in the long term and that less sensitive materials are not introduced at a later stage. The management of the site need to be undertaken by a party who have sufficient resources and expertise to ensure that the open space continues to make a positive contribution to the conservation area and listed buildings.

Quantum of development

The application looks to provide 10 units, which exceeds the maximum of 9 identified in the Neighbourhood Plan. The council need to determine whether this deviation from policy has been sufficiently demonstrated.

We maintain the view that the loss of one unit from the site would allow for the layout of the development to be greatly rationalised including the removal of the church car park and access road as this could now be situated within the allocated site.

Policy

The NPPF highlights that Local Planning Authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals should aim to preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset (para.200 NPPF).

We have again highlighted a number of areas where further steps should be taken in order to address the concerns raised regarding the impact on the conservation area and the setting of the grade II* listed building. The council need to be satisfied that sufficient steps have been taken to avoid or minimise the conflict between the asset's conservation and aspects of the development (Para 190). The council also need to be confident that sufficient steps have been taken to clear and convincingly justify the harm caused by aspects of the proposal as identified as required under para 194 and for any aspects that deviate from the neighbourhood plan.

If the harm can be justified then, the any justified harm will need to be considered within the planning balance, to ensure that the public benefit outweighs the harm identified (Para 196, NPPF).

Recommendation

In line with the advice set out in the above correspondence, Historic England would strongly encourage the LPA to ensure that sufficient steps have been taken to avoid or minimise the impact of the development on the significance of the heritage assets and the character and appearance of the conservation area.

The LPA should be confident that the harm has been clear and convincingly justified (Para 194, NPPF) and that there are sufficient public benefits to outweigh the resulting harm caused by the encroachment of development into the rural setting of the church, which forms an important open green space within the conservation area (Para 196, NPPF).

As the application affects a listed building, the statutory requirement to have special regard to the desirability of preserving the building, its setting and any features of special interest (ss.66 (1), Planning (Listed Building and Conservation Area) Act 1990) must be taken into account by your authority when making its decision.

Furthermore, as the application affects a conservation area, the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by your authority when making its decision.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Devon County Archaeologist

I refer to the above application and your recent consultation. The proposed development lies within 50m of the parish church of St Mary, a grade II* listed building (ref: 1165089) and, as such, I would advise that the Planning Authority's Conservation Officer and Historic England are consulted with regard to any comments they may have on the impact upon the setting of this designated heritage asset.

The following comments are made without prejudice to any comments made by the Conservation Officer or Historic England.

The archaeological investigations undertaken in support of this planning application have demonstrated that the site contains archaeological deposits associated with the medieval and post-medieval occupation of this part of the historic village. Artefactual material also indicates the potential for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed development will expose and destroy archaeological and artefactual deposits associated with these heritage assets. While these heritage assets are not of such significance that the Historic Environment Team would recommend preservation in situ, I would advise that the impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team therefore recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, 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 developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in 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 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of all areas affected by the proposed development that may contain archaeological or artefactual deposits to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken - including the analysis and dating of palaeoenvironmental samples taken during the field evaluation of the site - would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also 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. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Environment Agency

Thank you for consulting us on this application.

Environment Agency position

We have no objections to the proposed development.

Reason

The submitted Flood Risk Assessment and drainage strategy provide the appropriate detailed information regarding the risk of flooding to the site, including the impact of climate change in the future.

Further comments:

Thank you for reconsulting us on the above planning application.

Environment Agency position

We confirm that our position remains as set out in our letter dated 10 December 2018 that we have no objections to this proposal.

If the area of land within the flood zone or within 8m of the main river benefits from any permitted development rights, we would recommend that these are removed to reduce

flood risk by ensuring that no additional structures, fencing or land raising can occur within this area without prior planning consent.

Advice to LPA

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the proposed masterplan indicates that the dwellings themselves will be located outside of the flood zone and that the parts of the site at risk of flooding will instead form part of the green infrastructure network. We welcome this and are satisfied that a sequential approach has been taken to the layout of this site.

Informative

This proposal is located adjacent to a watercourse which is designated a main river at this location. Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. This was formerly called a Flood Defence Consent although some activities are now excluded or exempt. Further details and guidance on how to apply or register an exemption are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

A permit is separate to and in addition to any planning permission granted.

DCC Flood Risk Management Team

We have no in-principle objections to the above planning application, from a surface water drainage perspective, at this stage.

If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning condition/s is/are imposed:

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk & Drainage Strategy Technical Note 0743 8th November 2018.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

Observations:

The applicant has submitted a feasible surface water drainage strategy which follows the principles set out in the surface water management hierarchy. The strategy utilises an above ground basin providing number benefits in terms of water quality, biodiversity, amenity and flood risk.

Further information should be provided at the next stage with regards to the reinforced grass construction proposed for the car park area and access road as well as a maintenance schedule for this element of the drainage strategy. This will provide an element of source control at the site.

South West Water

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

Please find enclosed a plan (view on "associated documents" tab) showing the approximate location of a public sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal.

Foul Sewerage Services

South West Water advises a Planning Condition to emphasise that: Foul drainage from the Development (and no other drainage) shall be connected to the public foul or combined sewer.

Reason: To ensure the discharge of drainage from the Development shall not be prejudicial to the public sewerage system and ensure there are adequate public foul sewerage facilities to receive foul water flows, in order to safeguard the public and environment.

Surface Water Services

The statutory Water and Sewerage Undertaker supports the Planning Policy Guidance for Flood Risk & Coastal Change statement. To accompany its planning application, the applicant must demonstrate how its proposed development will have separate foul and surface water drainage systems and not be detrimental to existing infrastructure,

the public and environment (and that any provisions for protecting infrastructure have been agreed with SWWL as service-provider). The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,

Provide written evidence as to why Infiltration devices, including Soakaways, Swales, Infiltration Basins and Filter Drains do not meet the design standards as specified in either H3 Building Regulation standards for areas less than 100m². Soakaways serving larger areas must meet the design standard specified in BS EN 752-4 (para 3.36) or BRE Digest 365 Soakaway Design.

2. Discharge to a surface waterbody; or where not reasonably practicable,

Provide written evidence for refusal of discharge consent from owner of water body (Environment Agency, Local Authority, Riparian Owner etc)

3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,

Provide written evidence for refusal of discharge to drainage system (Highway Authority, Environment Agency, Local Authority, Private ownership)

4. Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation)

South West Water will carry out a hydraulic capacity review of the combined sewerage network before permission will be granted to discharge to the combined sewer.

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy. However, should this method be amended, SWWL will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Your LPA will be mindful of Local Plan policy to limit the adverse (including cumulative) effect of proposed development such that sustainability is paramount and flooding risk is not increased elsewhere, together with Paragraphs 162 of the NPPF, and Paragraphs 109 and 120 of PPG (Conserving and enhancing the natural environment).

I trust this clarifies the water and drainage material planning considerations for your LPA, however if you have any questions or queries, please do not hesitate to contact me either via e-mail: developerservicesplanning@southwestwater.co.uk or direct line: 01392 443983.

Please quote reference number MPP111218 EX8 5JU in all communications and correspondence.

Natural England

Thank you for your email consulting Natural England on the Appropriate Assessment for the above development in accordance with Paragraph 63 (3) of the Conservation of Habitats and Species Regulations 2017. Please be advised that, on the basis of the appropriate financial contributions being secured to the South-east Devon European Sites Mitigation Strategy (SEDESMS), Natural England concurs with your authority's conclusion that the proposed development will not have an adverse effect on the integrity of East Devon Pebblebed Heaths SAC, East Devon Heaths SPA, Exe Estuary SPA and Exe Estuary RAMSAR site.

Other Representations

At the time of writing this report 63 letters of objection and 20 letters of support have been received. The objections can be summarised as:

- Development will be outside the boundary of the LNP
- Over development of the site
- Increase in traffic and highway safety
- Green wedge should be preserved
- Too many dwellings are proposed over the allocation
- Loss of rural character of the site
- Attenuation pond and parking should be in the boundary
- Contrary to the Neighbourhood Plan allocation
- Contrary to Local Plan Strategies 6, 7 and 8
- Impact on setting of grade II* listed church and Conservation Area
- No affordable housing
- Light pollution
- Design would be out of character
- Urbanisation of the countryside
- Visual intrusion
- The site is not brownfield
- Not been informed by a development brief
- Vacant building credit should not be applied
- Lack of community consultation
- Quantum of development does not align with the LNP
- Impact of lighting
- Impact from noise and traffic
- Who will pay for maintenance of public area
- Buildings too close to Oak tree
- Increase in surface water run-off and flooding
- Precedent will be set if permission granted
- No dwellings for the elderly
- Building on a greenfield site
- Proposal has not been shown in the context of the BUAB
- Impact on ecology and biodiversity

- The proposal does not follow the LNP which the community voted for
- Encroachment into the countryside

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies Lymestone Neighbourhood Plan (Made)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

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)

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)

EN10 (Conservation Areas)

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)

Site Location and Description

The site occupies a roughly rectangular plot of 1.4Ha. The northern boundary abuts Church Road and Wotton Brook marks the southern boundary. Land to the east and west is residential. Land beyond Wotton Brook is permanent pasture that is used for informal recreation.

The site slopes gently from northeast to south west. The western side of the site was used as a plant nursery and comprises a mix of small glass houses, office accommodation and poly-tunnels. The eastern half of the site is used as horse paddock.

The boundary to Church Road comprises a wall approximately 0.9-1.2m high, part brick and part stone surmounted with some sections of hedge and railing. The eastern boundary comprises a thin, species rich hedge which has been allowed to grow up unchecked for some time. The western boundary comprises a lower species poor hedge. The boundary adjacent to the watercourse is fenced with scrub and trees along the bank.

There is no public access within the site. Lymptone footpath 1 runs adjacent to the eastern boundary between Church Street and Wotton Brook. Land beyond Wotton Brook is crossed by Lymptone footpaths 1, 2 and 3.

The site is generally enclosed by landform and buildings although from the top of the site there are westerly views down the valley to hills to the west side of the Exe estuary. The parish church (grade II* Listed) is a prominent feature in views to the north. There are filtered views to the south and east to the meadow beyond Wotton Brook.

While the north east corner of the site falls within the Lymptone Built Up area Boundary of Lymptone village as defined by the Lymptone Neighbourhood Plan, the remainder of the site is outside and is therefore classed as countryside as defined by the EDDC Local Plan. The entire site is designated as Green Wedge and falls within the Lymptone Conservation Area. There are a number of heritage assets in the vicinity including the Lymptone Parish Church (grade II* listed) which is situated immediately to the north of the application site. There are a number of grade II listed dwellings along Church Road. The Mill 100m to the southeast is also grade II listed. The Exe Estuary SAC lies 500m to the west.

The southern edge of the site is designated as flood zone 2 and 3.

Proposed Development:

Planning permission is sought for the residential redevelopment of the nurseries site on the eastern half of the site with 10 no detached two storey dwellings with associated garages, car parking and infrastructure and with a large area of public open space and a 15 space car park for use of the church to the western side. The submitted site plan shows the development to be laid out in a small estate form arranged around a central

vehicular access point off Church Road continuing the linearity of the settlement to the north of the site and with larger dwellings in more generous sized plots to the south.

The general design approach is contemporary whilst retaining a vernacular form with the use of pitched roofs and chimney features, where the dwellings would be constructed from a palette of traditional materials which include the use of rendered and brickwork walls, aluminium windows and vertical timber boarding under a mix of natural slate and clay tiled roofs. Contemporary architectural detailing would be provided through the pattern of fenestration, recessed doorways, dormer windows and the projecting box windows.

A high quality area of public space would be provided on the western side of the site incorporating seating and a natural play space along with gravelled pathways which would connect with the existing public footpath to the west of the site. Provision would be made for 15 no overspill car parking spaces for the church which would have a grasscrete surface finish. A footpath is proposed in the North West corner of the site leading to a new pedestrian access onto Church Road.

ANALYSIS

The main issues for consideration are the principle of development, layout and impact upon the character and appearance of the area, impact upon heritage assets; affordable housing provision; highway safety; archaeology; impact upon trees; impact upon ecology; flood risk and planning obligations.

Principle

Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Lympstone is identified as settlement suitable for residential development under the provisions of Strategy 27 (Development at the Small Towns and Villages) of the Local Plan based on the range of accessible services and facilities it has to meet many of the everyday needs of local residents with reasonable access to public transport. The application site is considered to be well related to the village's services and facilities and would be well located in sustainability terms to access them.

The Lympstone Neighbourhood Plan (LNP) is 'made' and therefore its policies are a material consideration and should be afforded full weight. Chapter 5 (Housing) of the LNP states that for the period 2012 to 2026, in accordance with the Local Plan, the Parish Council through its Working Party has identified land, mainly within the village BuAB, to accommodate 40 dwellings (The Allocated Sites). The Lympstone Nurseries site was one of four identified preferred locations for new residential development within the village and the site is allocated for housing for 6 dwellings within Objective 1 of the LNP.

The new built-up area boundary of Lypstone is provided within Map 2 of the LNP which includes sites allocated for housing to meet the housing need for the village across the NP period including the Lypstone Nurseries site. The LNP provides further commentary about the application site stating 'it should be noted that nursery site is extremely sensitive due to its position within the Conservation Area and proximity to nearby listed buildings, therefore any development there will be subject to a development brief and removal of existing visually intrusive structures. The BuAB (Built-up Area Boundary) amendment would be a line tight to the west of the existing greenhouses down to the main east/ west sewer and bounded by the lane to the east and Church Road to the north. Any such development must not compromise the current open views in front of the church and will retain the prominent Oak tree'.

Whilst the site is a housing allocation for 6 dwellings, the text makes it clear that 'there may be an opportunity to develop the Nursery site for up to 9 dwellings but this will be subject to a development brief and consultation'.

Policy 17 of Objective 11 (Open Space) of the LNP states that The Nursery site will be developed as an 'Enabling Development' and in so doing create a new 'village green' on the land opposite the church. This will be the subject of a Development Management Brief and an agreement between the Parish Council and the landowners.

Whilst the principle of residential development within the built-up area boundary of the site is considered to be acceptable under the provisions of objective 1 of the LNP and Strategy 6 (Development within Built-up Area Boundaries) of the East Devon Local Plan, it should be noted that one of the proposed dwellings (unit 8) and the rear gardens to 8, 9 and 10 falls outside of the built-up area boundary and is therefore considered to be in the countryside under the provisions of Strategy 7 (Development within the Countryside) of the Local Plan. The application has therefore been advertised as a departure from the Local Plan on the basis that part of the residential development would be located outside of the built-up area boundary on land to the south and west of the former nursery site and because the proposal is for 10 dwellings and not the 6 dwellings for which it has been allocated.

Whilst this is the case, the fact that the proposal would be partly within the former Lypstone Nursery site as well as on agricultural land to the south and west that is outside of the BuAB in the countryside, in the Green Wedge and for 10 units is not in itself a reason to object to the application, moreover it is a matter of assessing the harm that would arise from the proposal and its conflict with Strategies 7 and 8 of the Local Plan and the LNP. Harm that has to be assessed against any public benefits arising from the scheme.

Strategy 7 (Development in the Countryside) of the Local Plan states that development in the countryside will only be permitted where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional boundaries, areas of importance for nature conservation and rural buildings.

3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

Strategy 8 (Development in Green Wedges) of the Local Plan states that within Green Wedges, development will not be permitted if it would add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence.

The built up area boundary as drawn in the LNP results in a site that is an irregular shape and does not reflect the built form of the existing nursery site and its buildings on the ground, the boundary excluding some of the site and buildings. Officers consider that the applicant has demonstrated that a more comprehensive residential development could be achieved on the site in utilising the footprint of the existing buildings which results in a more regular shaped site in which a residential layout can be better accommodated. This is considered to be a more logical manner in which to re-develop the site.

It is acknowledged that the proposal would encroach into the countryside as it proposes development in the form of unit 8 and the rear gardens to units 8, 9 and 10 on agricultural land to the south and west which is a concern that has been raised by a number of local residents. The extent of this encroachment into the countryside and Green Wedge was a concern shared by officers which has resulted in the submission of amended plans re-positioning a number of the dwellings eastwards into the boundary. Furthermore, the detached garages to plots 8, 9 and 10 have been moved north to ensure that this part of the proposal is more closely related to the development and within the boundary. The applicants have also introduced an area of public open space behind plots 8, 9 and 10 on the southern part of the site which would help to soften the impact of the proposal on this part of the site and reduce the amount of development that encroaches into the countryside and the Green Wedge.

On balance, it isn't considered that the development proposed outside of the boundary for 10 units, on the footprint of the existing nursery site and buildings would result in significant harm to the distinctive landscape, amenity and environmental qualities of the area or undermine the objectives of the Green Wedge designation. It should be noted that the entire site falls within the Green Wedge and that the amended plans which have reduced the amount of development from within the Green Wedge along with the introduction of the open space to the south of the development would assist in softening the impact of the rear gardens of the properties to the south of the site. Furthermore, the benefits to be derived from the removal of the unsightly nursery buildings, a more comprehensive residential scheme and layout and the additional areas of open space with footpath links to the existing public footpath network are considered to outweigh the limited additional harm that would arise from a small amount of the development being positioned outside of the boundary of the LNP and the conflict with Strategies 7 and 8 of the Local Plan.

Layout, Character and Appearance

The application site plays an important role in the Conservation Area as an area of open space forming part of a belt of substantially undeveloped land which divides higher and lower Lympstone. The western half of the site, currently undeveloped,

forms much of the outlook from the public vantages in front of the site and gives a strong rural character to this part of the village. It is accepted that this is an important space within the settlement and as such, the site is very sensitive to change. Whilst the buildings on the site from its previous use as a nursery detract from the character and appearance of the area and the setting of heritage assets because of their transient nature and appearance, it is accepted that redevelopment of the site for housing, the creation of a village green and a parking area will have an impact on the character of the space and the visual amenity of the surrounding area.

Policy D1 (Design and Local Distinctiveness) of the Local Plan requires that proposals:

1. Respect the key characteristics and special qualities of the area in which the development is proposed.

2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

3. Do not adversely affect:

- a) The distinctive historic or architectural character of the area.

- b) The urban form, in terms of significant street patterns, groups of buildings and open spaces.

- c) Important landscape characteristics, prominent topographical features and important ecological features.

- d) Trees worthy of retention.

- e) The amenity of occupiers of adjoining residential properties.

- f) The amenity of occupants of proposed future residential properties,

Generally the application has provided a very detailed analysis of the existing character of the village and a good understanding of the site, its heritage and its importance within Lymptone which has informed the design and layout of the development. The proposed housing scheme is considered to be very well designed in terms of its layout, its contemporary interpretation of vernacular design, the scale and massing of the buildings and the manner in which it creates a high quality townscape continuing the linearity of the settlement with a frontage onto Church Road and through the creation of a strong edge and active frontages to the village green and public open space to the west.

Officers have worked with the applicants to address concerns raised by the Council's Conservation Officer and Landscape Architect and those of Historic England to create a layout which forms a tighter knit group of dwellings, whilst ensuring that the development does not encroach significantly on open views out from the church and the re-positioning of detached garages to the front of plots in closer proximity to the built form of the individual dwellings. It is considered that these amendments provide a better relationship for the units and wider development and allows for a more attractive and open space to the south of the site.

Whilst the consolidation of built form and the inevitable urbanisation of the site will result in the loss of some of the sites rural character and the extent of the proposed housing will reduce the perceived sense of open space connecting to the open countryside beyond, it is considered that if constructed to a high standard, the proposed layout, materials and architectural design of the dwellings would form an interesting and contemporary interpretation of the vernacular form of properties found within the area which would make a positive contribution to the evolution of this part of the village.

The site is in a prominent and sensitive location in the village and the Conservation Area, opposite the Church. The removal of the nursery buildings and their replacement with a high quality residential development scheme together with the public open space will enhance the character and appearance of the village and whilst inevitably the existing open nature of the site will be altered, the impact on the character and appearance of the area needs to be weighed against the wider public benefit.

Policy RC2 (New Open Space, Sports Facilities and Parks) of the Local Plan states that within or adjoining urban or built-up areas, permission will be granted for new open space areas, allotments, sports facilities and parks, the accommodation of the visual and performing arts, and the upgrading or enhancement of existing facilities provided the following criteria are met:

1. They do not unduly affect the character and appearance of the area and the visual and physical amenities enjoyed by adjoining residential areas.
2. They are accessible by public transport, bicycle and on foot.
3. Appropriate car and cycle parking is provided.
4. The proposed road access to the site provides for safe exit and entry and the local road network can safely accommodate the extra traffic the proposal would generate.
5. The facilities are located without detriment to the best and most versatile agricultural land, nature conservation interest and the conservation of areas of landscape, scientific, archaeological or historic interest.

Concerns have been raised about the impact of the village green, the car park and the attenuation basin and the impact they would have on the character and appearance of the area. Whilst these concerns are noted, it is considered that the new village green (a requirement of Neighbourhood Plan policy 17) has been well designed to provide a simple open green space with a small discretely sited parking area for occasional use by the Church. Whilst the addition of gravelled pathways would have a degree of an urbanising impact, generally the treatment of the village green is considered to be naturalistic and sympathetic to the rural landscape character of the site. Much will depend on the chosen materials and finishes for the hard surfacing and the landscaping and overall landscape management of the site which will be the subject of a condition.

The attenuation pond also needs to be carefully designed so that it is integrated into the proposed lower meadow area. The proposed village green is considered to be well considered and would meet the provisions of policy 17 of the Neighbourhood Plan whilst providing benefit to its users.

Concern has also been raised about the proposed overspill car parking area which is to be provided in the north eastern western corner of the site. Officers consider the chosen area for the parking to be sensitively and discretely sited within the corner of the site so as not to impact significantly on the character and appearance of the area. The proposed parking area would be constructed from grasscrete or a similar type of hard surfacing as maybe agreed by the Local Planning Authority where it will be necessary to ensure that the appearance of the parking area is as natural looking as possible to ensure it assimilates into the site and the surrounding open space. Careful attention will also need to be given to how the car parking area is managed and landscaping to help soften its impact. Subject to conditions controlling the surfacing, planting and management of the car park, it is considered that it will be of public benefit

and that its chosen siting will not significantly harm the character and appearance of the area.

On balance, it is considered that there would be significant gains to this part of the village through the removal of the nursery buildings which negatively impact on the visual amenity of the site and the character and appearance of the area. Furthermore, the design approach to the residential development, coupled with the delivery of the village green which has been well designed and considered would enhance the character and appearance of this prominent site which would be of benefit to the village as a whole. The substantial public benefits that would be derived from the scheme through the provision of the large area of public open space, the church car parking, the footpath links to link into existing public rights of way which will improve permeability and connectivity of the site with parts of the village, coupled with the removal of the existing buildings would outweigh the impact the proposal would have on the character and appearance of the area.

The proposal is considered to comply with the provisions of policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the Local Plan. Furthermore, it is considered that the proposal complies with objective 5 (Design) of the LNP which seeks to ensure that development is of a high quality design and sympathetic to the character of the village. Policy 7 of this objective states that new buildings should be of individual design that respects the local character and that there is room for imaginative new design sympathetic to the traditional buildings of Lympstone which is considered to apply to this development.

Heritage Impact

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to 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. The Local Planning Authority is also required to give considerable weight and importance to the duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a Conservation Area and to the special attention to be paid to the desirability of preserving or enhancing the character and appearance of that area. This is reflected in the National Planning Policy Framework and within the Council's Local Plan policies in relation to development affecting the setting of Conservation Areas and buildings of special architectural and historic interest (Policies EN9 and EN11 refers).

The NPPF advises that LPA's should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals should aim to preserve those elements of the setting that make a positive contribution to the asset to better reveal the significance of the asset (paragraph 200 refers).

The site is within the Lympstone Conservation Area and the setting of the grade II* listed Parish Church of the Nativity of the Blessed Virgin Mary. On the southern side of Church Road are two terraces of properties flanking the site, the majority of which are grade II listed. The significance of these heritage assets are contributed by their

setting and the ribbon development of the village which forms part of the distinct and strong character in this part of Lympstone.

In terms of the built form within the conservation area, this has a tight grain with many of the buildings nestling together to form small scale and intimate spaces that reinforce the linear nature of the site. This section of the conservation area is identified as having a looser grain but this relates to the large plots on the north side of the road and the site itself is bound by rows of terraced cottages to the east and a cluster of building to the west, which both reinforce the linear character of the settlement. Properties along Church Road tend to be positioned directly on the rear of the highway and undeveloped land is enclosed by stone walls. The most prevalent aspect of the site is its openness with views from Church Road towards Wotton Brook and return views of the church from the public rights of way that border the site.

The views expressed by Historic England refer to the site forming part of the most prominent open areas within the Conservation Area, historically forming the connection with the village's rural hinterland. They advise that this open context also contributes to the rural setting of the grade II* listed church. Both the site occupied by the former nursery and the field immediately to the west form a very prominent open space within the village and this contributes to the diversity, distinctiveness and character of the Conservation Area and to the setting of heritage assets. Both are important spaces within the settlement and as such the site is considered to be very sensitive to change. The identified heritage constraints are recognised within the LNP where it is stressed that the site is extremely sensitive due to its position within the Conservation Area and proximity to nearby listed buildings.

Historic England have advised that the grade II* listed church sits to the north of the site in an elevated position, affording views of the current rural landscape that separates the two main blocks of development within the conservation area. The rural open character of the field is an important part of the church's setting. It creates a strong contrast with the defined linear and tight grained character of Lympstone to provide the church with a sense of primacy and prominence within the settlement. The views out of the church are a clear reminder of the village's rural origin as well as providing an aesthetic quality to the experience of place, especially with the prominent tree within the field that helps to frame views through to the rising pasture land beyond. In their original consultation response, Historic England raised two main areas of concern:

- The encroachment of the housing into principal views to the rural landscape from the church
- The impact of the car park and the proposed access track to the west.

Housing Impact:

In respect of the encroachment of development on land to the west, Historic England advised that current views out from the church are framed by a substantial tree leading views through to the rural landscape beyond. The current site is tucked behind the tree and does not impinge on these views. Historic England raised concerns that the proposal will introduce development to the west (units 3, 6 and 8) extending it beyond the current extent of the poly tunnels introducing development into this view and

altering its current rural experience. There was concern that this encroachment of development into the green and open landscape would adversely affect a key aspect of the setting of the church. Similar concerns were raised in respect of the position of detached garages being intrusive and prominent features in these views and car parking spaces for dwellings that were originally positioned amongst the open space.

In their original consultation response, Historic England suggested that a number of steps could be taken to minimise the introduction of development into this view by:

- Setting the frontages of units back from their current location, moving them further to the east to reduce the encroachment of development into the green and open landscape, a key aspect of the church's setting.
- Relocating the garage to plot 8 considered to be an intrusive feature prominent in these views.
- Removing parking associated with the residential development should be from the open space and accommodated within the existing site boundary.

It was suggested that these changes would allow for the development to reduce its overall impact on the views and allow the green open space to retain a sense of primacy rather than feeling encroached upon by the proposed new dwellings.

In response to these concerns, the applicant provided amended plans which have set the frontages of units onto the public green back by moving them further east and by re-positioning detached garages alongside the southern plots and by removing parking from the open space which Historic England agree are improvements to the scheme as well as introducing the new area of parkland along the southern boundary.

However in making these changes, Historic England, in their latest response have raised concern that the proposals now bring unit 5 and the access road closer to the oak tree resulting in a development that would appear more prominently in views from the church and the conservation area due its re-positioning forward.

Historic England have put forward a number of suggestions to ensure that the development more closely aligns with the location of the existing buildings by moving the frontages of units 5 and 6 further east so that it creates the impression of a terrace with no. 3 and shifts the development further east, setting back unit 6 and rationalising unit 8 further in order not to project forward.

These suggestions have been put forward to the applicant who has submitted a further amended site plan which has removed the garage between plots 3 and 5, reduced the living room size of plot 6 and rearranged plot 8's parking from two side by side spaces to two parallel spaces. This allows for plots 5, 6 and 8 to be moved circa 1.5 metres east which would further ensure that this part of the housing scheme does not significantly impinge upon views from the listed church. Officers have taken the decision not to re-consult on the amended plans because the re-positioning of these plots is considered to be a betterment over the submitted site plan and because it is considered that the amendments have further reduced the impact of the development on the setting of heritage assets in accordance with Historic England's latest comments.

Car Park:

The other area of concern was the introduction of the overspill car parking area for the church and the access road and the introduction of permanent infrastructure into the rural open space in front of the church. Historic England have advised that the Council need to ensure that the layout seeks to minimise the level of intervention and sufficient screening should be in place in order to screen the site using appropriate boundary treatments. The choice of materials and the overall treatment of the road and car-parking area are paramount in ensuring that the car park does not adversely affect the setting of the church and the conservation area. It is accepted that the car park could be provided within the housing development itself which would reduce its impact however it is also accepted that the chosen position of the car park offers a more practical solution where it is closest to the church and where it will aid pedestrian access for those less abled. In addition, the car park is considered to be discretely located where it would not be overly prominent in views from the listed church and the Conservation Area.

Planning Balance:

There is no doubt that the removal of the Nursery buildings would be an improvement to the character of the area with conservation gains that are welcomed both by the Council's Conservation Officer and Historic England. However, it is also acknowledged that the site is in a sensitive location in the Conservation Area, opposite the grade II * listed church and that new housing development on the site will have an impact on the setting of the heritage assets and the overall character and appearance of the site and the wider Lympstone Conservation Area. It is agreed, as stated in the applicant's Heritage Impact Assessment (Section 10) that the development will have a significant effect on the character of the existing space.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 requires that any harm to, or loss of the significance of a designated heritage assets (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.

In this case, following receipt of the amended plans which have sought to address the heritage concerns raised by the Council's Conservation Officer and Historic England, it is considered that the impact of the proposal will lead to less than substantial harm to the significance of designated heritage assets where under the provisions of paragraph 196 of the NPPF there is a need for the decision maker to weigh this harm against the public benefits of the proposal.

It is considered that the changes to the scheme have positively responded to the concerns raised and has significantly reduced the development's overall impact on views of the grade II* listed church and the conservation area whilst allowing the proposed area of green open space to retain a sense of primacy. The housing scheme would have an impact on the rural setting of the church and the open space which is an important space within the conservation area and it is accepted that the proposal

could be rationalised further to further reduce the impact on the setting of heritage assets. The suggestions in the latest response from Historic England have been put forward to the applicant who made further changes to the scheme to reduce the amount it encroaches on views from the church.

The impact of the development on the setting of the church and conservation area need to be weighed against the benefits of removing the unsightly polytunnels and glass houses and the conservation gains this would bring to this part of the village. Furthermore, the design and layout of the development is considered to be well considered and of a high quality which subject to securing the suggested high standard of finish, materials and detailing would be a positive addition to the site. Views of the development would be broken up by the provision of the large area of the village green, the delivery of which is considered to be of public benefit. Similarly, the parking area to the North West would be discretely positioned within the corner of the site and through the imposition of conditions careful attention will be given to the treatment of the car park, its hard surfacing and landscaping to ensure that its appearance is sympathetic to the character of the area and assimilates into the development.

On balance, officers are satisfied that that the less than substantial harm to the setting of heritage assets has been clear and convincingly justified (Para 194, NPPF) and that there are sufficient public benefits to outweigh the resulting harm caused by the encroachment of development into the rural setting of the church, which forms an important open green space within the conservation area (Para 196, NPPF). These public benefits include the provision of the large area of public open space, the church car parking, the footpath links to link into existing public rights of way which will improve permeability and connectivity of the site with parts of the village, coupled with the removal of the existing buildings which detract from the character and appearance of the area.

Affordable Housing:

The site was formerly in use as a commercial nursery (horticulture) and therefore the lawful use of the site is considered to be agricultural. The applicant's planning statement asserts that the land is brownfield (or previously developed land) although the lawful use of the site does not fit within the NPPF's definition of previously developed land which states:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.'

Whilst the issue of whether the site should be considered to be previously developed land is not necessarily pertinent to whether housing on the site should be permitted because it is an allocation within the LNP it is pertinent to whether Vacant Building

Credit can be applied to the site in respect of reducing the affordable housing contribution by including the floorspace of existing vacant buildings on the site.

Paragraph 63 of the NPPF states that 'to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution should be reduced by a proportionate amount'.

The Planning Practice Guidance (PPG) at paragraphs 26, 27 and 28 sets out the following guidance on VBC and the circumstances in which it should be applied:

What is the vacant building credit?

National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

What is the process for determining the vacant building credit?

Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

Does the vacant building credit apply to any vacant building being brought back into use?

The vacant building credit applies where the building has not been abandoned.

The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property*
- the period of non-use*
- whether there is an intervening use; and*
- any evidence regarding the owner's intention*

Each case is a matter for the collecting authority to judge.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- whether the building has been made vacant for the sole purposes of re-development*
- whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development*

A number of representations have been received which have questioned whether VBC should apply to this site because it has been designed to incentivise brownfield development which would not apply to the Lympstone Nursery site because of its previous horticultural use. It has been suggested that the glass houses and polytunnels from the horticultural use remaining on site should not be deducted from any required affordable housing contribution. This matter has been the subject of much discussion and legal opinion where it has been concluded that VBC should apply to agricultural buildings because there is no distinction in the NPPG to suggest that they should be excluded and because VBC should be applied to any vacant building provided it has not been abandoned. Therefore, it is considered that VBC should be applied to this site and that the affordable housing contribution should be reduced by a proportionate amount.

The application is for 10 dwellings, a major development where under the requirements of paragraph 63 of the NPPF, affordable housing should be sought. Under the provisions of Strategy 34 (District Wide Affordable Housing Provision Targets) of the Local Plan, the policy requirement is for 50% (5 units) of the development to be provided as affordable housing.

Following legal advice on the matter, officers have advised that Vacant Building Credit can be applied to this proposal where there are vacant buildings on the site. In accordance with the NPPF and NPPG any affordable housing contribution due should be reduced by a proportionate amount equivalent to the existing gross floorspace of the existing buildings.

Therefore based on the floor areas provided in the planning application where the existing buildings amount to 2,457 sqm and the proposed floor space from the development is 2,584 sqm the resulting requirement would be to provide 0.5 units of affordable housing. As it is not possible to provide 0.5 units on-site a commuted sum would be required and this would amount to £22,488 and will be secured through a section 106 agreement.

Residential Amenity

Policy D1 (Design and Local Distinctiveness) requires that proposals do not adversely affect the residential amenities of existing residents. The proposed housing would have its greatest impact on the occupiers of Meadow Gate to the east whose rear garden runs parallel to the site. Unit 1 would be positioned adjacent to the Meadow Gate and would be separated from the property by the public footpath. Unit 1 would

be orientated such that it does not have an unduly harmful physical impact on the occupiers of the property to sustain an objection. First floor bedroom windows would face into the rear garden of the unit and would allow only oblique views towards the rear garden of Meadow Gate but not to a degree that would result in unacceptable levels of overlooking or loss of privacy.

Units 7 and 10 would be positioned further south of the site with their respective rear and side elevations facing towards the rear end of land at the rear of Meadow Gate. These properties would have a number of first floor windows facing east however this is not considered to be residential curtilage such that it is not considered that the first floor windows would result in an unacceptable level of overlooking or loss of privacy to the rear garden of this property.

The remainder of the development is considered to be sufficiently distanced from the nearest residential properties so as not to adversely affect residential amenity.

The overspill car park to the west of the site would be positioned at the rear of the rear garden of The Firs which sits in a generous sized plot. Given the intended occasional use of the car park as an overflow for the church coupled with its sunken position behind a boundary hedge, it isn't considered that car park would result in any significant harm to residential amenity to sustain an objection.

On balance, the proposal is considered to comply with the provisions of policy D1 which seeks to ensure that the amenity of existing occupiers is not adversely affected.

Highway Safety

Policy TC7 (Adequacy of Road Network and Site Access) of the Local Plan states that planning permission for new development will not be granted if the proposed access or the traffic generated by the development would be detrimental to the safe and satisfactory operation of the local or wider highway network.

Vehicular access into the site is proposed to be taken from the existing former nursery site access off Church Road which is a 'C' class road. The proposal would allow for the improvement of the access visibility splay where the existing walls are to be rebuilt to a maximum of 600 mm height to ensure that visibility splays are not obstructed.

The County Highway Authority has raised no objections to the proposal and it is considered that a safe and sustainable access can be provided that would result in no severe impacts on the local highway, a key test within the NPPF.

Car parking for the development will be provided at a ratio of 2 spaces per dwelling in addition to a garages for individual plots. The proposal is considered to comply with the provisions of policy TC9 (Parking Provision in New Development) of the Local Plan.

The proposal makes excellent provision for pedestrian access paths that will pass through the open space and connect to the public footpath network. Permeability through the development and through the open space is a strong feature of this scheme which will encourage pedestrian movement creating a continuous link through the site enabling pedestrians to walk off road rather than along Church Road which

has no footway. This would be a safety benefit for pedestrians accessing the school and church nearby. A new pedestrian access would be provided to the North West corner of the site onto Church Road from the open space which would allow users of the church parking area access across the road to the church.

Archaeological Impact

The County Council's Archaeologist has advised that the archaeological investigations undertaken in support of this planning application have demonstrated that the site contains archaeological deposits associated with the medieval and post-medieval occupation of this part of the historic village. Artefactual material also indicates the potential for prehistoric and Romano-British activity in this area. As such, groundworks for the construction of the proposed development will expose and destroy archaeological and artefactual deposits associated with these heritage assets. While these heritage assets are not of such significance that the Historic Environment Team would recommend preservation in situ, it has been advised that the impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team therefore recommends that a condition is imposed that prevents any development from being undertaken until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team. Such a condition would ensure the proposal complies with paragraph 199 of the National Planning Policy Framework (2018) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the Local Plan.

Arboricultural Impact

The proposal seeks to avoid the unnecessary removal of any trees or vegetation. With the exception of the position of a footpath around the principle veteran oak tree (T1) at the front of the site, the Council's tree officer has advised there are no objections to the principle of the proposed scheme. The amended plans have moved the proposed path closer to Church Road such that it would now be positioned outside of the rooting environment of the tree which makes a significant contribution to the character and appearance of the area, the protection of which is paramount. A number of discrepancies have been raised with some of the detail contained within the report but it is considered that a condition can be imposed requiring the submission of an Arboricultural Method Statement and Tree Protection Plan. The proposal is considered to comply with the provisions of policy D3 (Trees and Development Sites) of the Local Plan.

Ecological Impact

The application is accompanied by an Ecological Impact Assessment prepared by EPS ecology Ltd which provides a detailed assessment of the likely impacts of the development on species and habitats which are protected under the Wildlife and

Countryside Act 1981 and the Conservation of Habitats and Species Regulations. Subject to conditions requiring the development to be carried out in accordance with the ecological mitigation measures contained within the report which would include the submission of a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP) it is considered that the proposal would have no significant impacts on protected species and that biodiversity and ecological gains can be secured across the site. The proposal is considered to comply with the provisions of policy EN5 (Wildlife Habitats and Features) of the Local Plan.

Habitats Regulation Assessment and Appropriate Assessment

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

Flood Risk and Drainage

The majority of the site is located in flood zone 1 and although the southern part of is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. The Environment Agency have advised that technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the proposed masterplan indicates that the dwellings themselves will be located outside of the flood zone and that the parts of the site at risk of flooding will instead form part of the green infrastructure network. This approach is welcomed and the EA are satisfied that a sequential approach has been taken to the layout of this site and therefore raise no objections to the application on flood risk grounds.

The County Council's Flood Risk Management Team have advised they have no in-principle objections to the application, from a surface water drainage perspective on the basis that the applicant has submitted a feasible surface water drainage strategy which follows the principles set out in the surface water management hierarchy. The strategy proposed utilises an above ground basin providing a number benefits in terms of water quality, biodiversity, amenity and flood risk. A condition is recommended for the submission of the detailed design of a permanent surface water drainage management scheme prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

In the absence of any objections from the Environment Agency or the Flood Risk Management Team, it is considered that the proposals comply with the provisions of policies EN21 (River and Coastal Flooding) and EN22 (Surface Run-Off Implications of New Development) of the Local Plan.

Planning Obligations

In order to secure the necessary planning obligations a Section 106 agreement is required to secure the following:

- A financial contribution of £22,488 towards affordable housing.
- Details of the transfer of the open space and car park to the Parish Council and/or management company.
- Timescales for the delivery of the public open space and car park
- Details of the management and maintenance arrangements for the public open space and car park.

CONCLUSION:

Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The Lymptone Nurseries site is allocated for 6 houses in the Lymptone Neighbourhood Plan and this application is a departure from the Local Plan and the LNP because part of it would be located outside of the built-up area boundary of the village on land to the south and west of the former nursery site and because the proposal is for 10 dwellings and not the 6 dwellings for which it has been allocated. This weighs against the proposal in principle.

In this case, whilst the proposal is finally balanced, its benefits have been carefully assessed against the harm that would arise from allowing the development to encroach into the countryside and the Green Wedge along with the impacts on heritage assets which include the grade II* listed church and the Conservation Area.

Having regard for the above and the fact that the site forms a very prominent open-space within the village which is an important space within the settlement and is very sensitive to change, it is considered that there are a number of material considerations which weigh in favour of the application which include the provision of the large area of public open space, the provision of church car parking, the footpath links to link into existing public rights of way which will improve permeability and connectivity of the site with parts of the village, coupled with the removal of the existing buildings which detract from the character and appearance of the site and the surrounding area.

Concerns from Historic England about the encroachment of development into the rural space beyond the confines of the existing nursery which is an important element of the grade II* listed church's setting have been carefully considered officers are satisfied that that they have been adequately addressed by amendments to the

proposal and that the less than substantial harm to the setting of heritage assets has been clearly and convincingly justified (Para 194, NPPF) and that there are sufficient public benefits to outweigh the resulting harm caused by the encroachment of development into the rural setting of the church, which forms an important open green space within the conservation area (Para 196, NPPF).

Whilst finally balanced and recognising that the proposal is a departure from the Local Plan and the Neighbourhood Plan because part of it would fall outside of the BuAB of the village within the Green Wedge and would exceed the housing allocation within the LNP, it is considered that the benefits of the scheme and the provision of a comprehensive, high quality and well-designed redevelopment of the site on the former nursery buildings would outweigh the limited policy harm that would arise from the proposal. The application is strongly supported by the Parish Council and ward councillors who recognise that the public benefits that would arise from the removal of the unsightly nursery buildings and their replacement with a well-designed group of houses, together with the new public open space which will enhance the character and appearance of the village, outweighing the loss of some of its rural character.

Accordingly, the application is recommended for approval subject to a S106 agreement and conditions.

RECOMMENDATION

1. That the Habitat Regulations Appropriate Assessment attached to the Committee Report be adopted.

2. That the application be APPROVED subject to a S106 legal agreement 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. 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, no development above foundation level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - Samples of materials to be used in the construction of the external surfaces of the dwellings, garages and car ports
 - Roofing materials including product details, sample and method of fixing.
 - Size, type and manufacturers model of all roof lights, including method of flashing.
 - New rainwater goods including profiles, materials and finishes.
 - New window types and dormers including sections, mouldings, profiles And paint colour/finishes. Sections through casements, frames and glazing bars should be at a scale of 1:2 or 1:5.

- New door types including sections, mouldings, profiles and paint colour/finishes. Sections through panels, frames and glazing bars should be at a scale of 1:2 or 1:5.
- Eaves and verge details including construction and finishes.
- External vents, flues and meter boxes.
- New chimney stacks including materials, detailing and pots
- Type of render including proportions of mix, method of application and colour/finishes.
- Details including samples of any surfacing of the access, parking or hardstanding areas
- Walls, fences and other means of enclosure or boundary treatment (colour and materials)

The development shall thereafter 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, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)

4. Prior to commencement of any part of the development, the Local Planning Authority shall have received and approved in writing a Construction Management Plan (CMP) to include the following:

- (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 wheel washing facilities and obligations
- (k) Details of the amount and location of construction worker parking.

(Reason: A pre-commencement condition is required to ensure that adequate facilities are available for construction and other traffic attracted to the site in accordance with Policy TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)

5. Notwithstanding the submitted details, no soft or hard landscaping of the site shall commence on site until the following information has been submitted and approved in writing by the Local Planning Authority:
- a) A full set of hard landscape details covering earthworks, walls, retaining structures, fencing, pavings and edgings, hard surfacing, site furniture and signage.
 - b) Details of existing and proposed levels and drainage scheme incorporating appropriate SuDS features, maximising opportunities for rainwater collection, reuse, attenuation and filtration within the site.
 - c) Details of locations, heights and specifications of proposed external lighting.
 - d) Samples of proposed gravel finishes to paths and roads.
 - e) A full set of soft landscape details including planting plans showing locations and number of new tree, shrub and herbaceous planting, type and extent of new grass areas, existing vegetation to be retained and removed and means of protection.
 - f) Plant schedule indicating form size and density of planting.
 - g) Specification for soil quality, cultivation, planting/ sowing, mulching and means of plant support and protection during establishment period.
 - h) The method of access control to the open space
 - i) Sections through the drainage basin and details of inlets and outlets

The development shall thereafter 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, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)

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

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local

Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

7. No construction of any building above foundation level shall commence until details of fencing, walling or any other hard or soft landscape boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Any walls and/or fences shall be erected in accordance with the approved details within the curtilage of the dwelling house before it is first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), these walls and/or fences shall not thereafter be altered, removed or replaced without the prior written approval of 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 Policy D1 (Design and Local Distinctiveness) and Policy D2 (Landscape Requirements) of the East Devon Local Plan.)

8. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to any development above foundation level. The proposals shall be carried out as approved for the full duration of the plan.

(Reason - To ensure that the details are 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 2013-2031.)

9. Prior to the commencement of the development hereby approved (including and all preparatory work), the following tree protection measures as identified in the submitted Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) prepared by Advanced Arboriculture (ref TH/A177/0918v2.0) dated 10th April 2019 will have been completed:

a) The tree protection fencing shall be in place and in accordance with the agreed specification.

b) The installed tree protection will have been inspected by an appropriately experience and qualified Arboricultural Consultant commissioned to act as the project Arboricultural Supervisor.

c) The findings of the Arboricultural Supervisors initial site inspection shall be forwarded to Local planning Authority prior to the commencement of works on site.

During the development hereby approved, the following tree protections measures identified in the above AMS and TPP will be undertaken:

d) The AMS and TPP shall be strictly followed.

e) Ad-hock six weekly site inspections shall be undertaken by a suitably qualified tree specialist and the finding recorded in the site monitoring log.

f) Any departures from the approved TPP and AMS shall be reported to the Local Planning Authority in writing within five working days of the site inspection.

On completion of the development hereby approved:

g) A completed site monitoring log shall be submitted to the Planning Authority for approval and final discharge of the tree protection condition.

(Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy D3 - Trees and Development Sites of the East Devon Local Plan 2013-2031 and pursuant to section 197 of the Town and Country Planning Act 1990)

9. Prior to commencement of any works on site (including demolition and ground works); full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works or five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

(Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Policies D1 - Design and Local Distinctiveness, D2 - Landscape Requirements, D3 - Tree and Development Sites of the East Devon Local Plan 2013-2031).

10. Notwithstanding the submitted details, no development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in 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 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works).

11. Notwithstanding the submitted details, no part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance

with the principles of sustainable drainage systems, and those set out in the Flood Risk & Drainage Strategy Technical Note 0743 dated 16th April 2019.

(Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems. Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream in accordance with the provisions of policy EN22 (Surface Runoff Implications of New Development) 2013-2031).

12. Prior to commencement of any development, a Landscape and Ecological Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. This shall be based on the proposed mitigation, compensation and enhancement measures contained within the Ecological Impact Assessment prepared by EPS Ecology Ltd received on the 12th November 2018. The development shall thereafter be carried out in accordance with the approved details.

(Reason: To ensure that the impacts of the development on ecology/ protected species and the landscape is suitably mitigated for and to comply with policies EN5 (Wildlife Habitats and Features), D2 (Landscape Requirements) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan 2013-2031. The LEMP is required prior to commencement as some mitigation will be needed at the start of the development).

13. A Construction and Environment Management Plan shall be submitted to and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. 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: A pre-commencement condition is required to ensure that the details are agreed before the start of works 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 Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)

14. No development above foundation level shall take place until details of the layout of the vehicular and pedestrian access onto Church Road to include elevations, cross sections, materials and finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

(Reason - To ensure that the works to the accesses are sympathetic to the character and appearance of the area, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2 Part 1 Classes A, B, C, D or E 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 or 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, shall be undertaken.
(Reason: To ensure that extension and alterations cannot be made to the dwellings without planning permission in the interests of the character and appearance of the development, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2, Part 2 of Class A for the erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure shall be undertaken.
(Reason: If uncontrolled, boundary treatments other than those approved as part of a landscaping plan could adversely affect the character and appearance of the development, in the interests of the character and appearance of the area, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)
17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2, Part 14 of Classes A and B for the installation of micro regeneration solar PV or solar thermal equipment on a dwellinghouse or standalone micro regeneration within the curtilage of a dwellinghouse shall be undertaken.
(Reason: If uncontrolled, the installation of solar PV could adversely affect the character and appearance of the development, in the interests of the character and appearance of the area, the Conservation Area and the setting of heritage assets) in accordance with Policies D1 (Design and Local Distinctiveness), EN9 (Development Affecting a Designated Heritage Asset) and E10 (Conservation Areas) of the Adopted East Devon Local Plan 2013-2031.)
18. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram PHL-101 Rev C 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 25.0 metres in a north westerly direction and 27.0 metres in the other direction.

(Reason: To provide adequate visibility from and of emerging vehicles 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).

19. The existing access 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 private lane 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).

20. The proposed footpath from the car park to Church Road as shown on the drawing no 0208LYM PL1.2 Rev A shall be made available as soon as the church vehicle parking area has been completed.

(Reason: To provide the parking amenity for churchgoers 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).

Plans relating to this application:

EPS Ecology Sept 2018	Ecological Assessment	12.11.18
	Location Plan	12.11.18
0208_LYM_PL_ U7_3.4 REV A : UNIT 7 GARAGE (AMENDED)	Proposed Elevation	19.03.19
0208_LYM_PL_ U7_3.0 REV A : UNIT 7 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U7_3.1 REV A : UNIT 7 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U7_3.2 REV A : UNIT 7 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U7_3.3 REV A : UNIT 7 (AMENDED)	Proposed Elevation	15.03.19

0208_LYM_PL_ U8_3.0 REV A : UNIT 8 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U8_3.1 REV A : UNIT 8 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U8_3.2 REV A : UNIT 8 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U8_3.3 REV A : UNIT 8 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U8_3.4 REV A : GARAGE UNIT 8 (AMENDED)	Proposed Elevation	19.03.19
0208_LYM_PL_ U9_2.0 REV A : GROUND (UNIT 9) (AMENDED)	Proposed Floor Plans	15.03.19
0208_LYM_PL_ U9_2.1 REV A : FIRST (UNIT 9) (AMENDED)	Proposed Floor Plans	15.03.19
0208_LYM_PL_ U9_2.2 REV A : (UNIT 9) (AMENDED)	Proposed roof plans	15.03.19
0208_LYM_PL_ U9_3.0 REV A : UNIT 9 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_SK_ U9_3.1 REV A : UNIT 9 (AMENDED)	Proposed Elevation	15.03.19

0208_LYM_SK_ U9_3.2 REV A : UNIT 9 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U9_3.3 REV A : UNIT 9 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U9_3.4 REV A : GARAGE UNIT 9 (AMENDED)	Proposed Elevation	19.03.19
0208_LYM_PL_ U10_3.2 REV A : UNIT 10 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U10_3.3 REV A : UNIT 10 (AMENDED)	Proposed Elevation	15.03.19
0208_LYM_PL_ U10_3.4 REV A : GARAGE UNIT 10 (AMENDED)	Proposed Elevation	19.03.19
+DRAINAGE TECHNICAL NOTE (AMENDED)	Flood Risk Assessment	17.04.19
(AMENDED)	Transport Statement	17.04.19
0208_LYM_PL_ U1/2_2.0 REV A : GROUND (UNIT 1+2((AMENDED)	Proposed Floor Plans	15.03.19
0208_LYM_PL_ U1/2_2.1 REV A : FIRST (UNIT 1+2)(AMENDED)	Proposed Floor Plans	15.03.19
0208_LYM_PL_ U1/2_2.2 REV A	Proposed Floor Plans	15.03.19

: SECOND (UNIT
1+2)(AMENDED)

0208_LYM_PL_ U1/2_2.3 REV A : UNIT 1+2 (AMENDED)	Proposed roof plans	15.03.19
---	---------------------	----------

0208_LYM_PL_ U1/2_3.1 REV A : UNIT 1+2 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_SK_ U2_3.2 : UNIT 2 (AMENDED)	Proposed Elevation	15.03.19
--	--------------------	----------

0208_LYM_PL_ U3_3.2 REV A : UNIT 3 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U1/2_3.4 REV A : UNIT 1+2 GARAGE (ADDITIONAL)	Proposed Elevation	19.03.19
--	--------------------	----------

0208_LYM_PL_ U5_3.2 REV A : UNIT 5 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U5_3.3 REV A : UNIT 5 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U5_3.4 REV A : UNIT 5 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U4_2.0 REV A : GROUND (UNIT 4) (AMENDED)	Proposed Floor Plans	15.03.19
--	----------------------	----------

0208_LYM_PL_ U4_2.1 REV A :	Proposed Floor Plans	15.03.19
--------------------------------	----------------------	----------

FIRST (UNIT 4)
(AMENDED)

0208_LYM_PL_ U4_2.2 REV A : UNIT 4 (AMENDED)	Proposed roof plans	15.03.19
---	---------------------	----------

0208_LYM_PL_ U4_3.0 REV A : UNIT 4 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U4_3.1 REV A : UNIT 4 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

0208_LYM_PL_ U4_3.2 REV A : UNIT 4 (AMENDED)	Proposed Elevation	15.03.19
---	--------------------	----------

ARBORICULTU RAL REPORT	TH/A177/0918v2.0	17.04.19
---------------------------	------------------	----------

List of Background Papers

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

Appropriate Assessment

The Conservation of Habitats and Species Regulations 2017, Section (63)

Application Reference	18/2589/MFUL
Brief description of proposal	Demolition of existing polytunnels/greenhouses and erection of 10 dwellings, public open space and a car park for use by the church
Location	Lympstone Nurseries, Church Road, Lympstone
Site is:	Within 10km of Dawlish Warren SAC and the Exe Estuary SPA site Within 10km of the Exe Estuary SPA site alone (UK9010081) Within 10km of the East Devon Heaths SPA (UK9010121) Within 10km of the East Devon Pebblebed Heaths SAC (UK0012602) Within 10km of the Exe Estuary Ramsar (UK 542) (See Appendix 1 for list of interest features of the SPA/SAC)

Step 1 Screening for Likely Significant Effect on Lympstone Nurseries, Church Road, Lympstone

Risk Assessment

Could the Qualifying Features of the European site be affected by the proposal? Consider both construction and operational stages.	Yes - additional housing within 10km of the SPA/SAC will increase recreation impacts on the interest features.
---	--

Conclusion of Screening

Is the proposal likely to have a significant effect, either 'alone' or 'in combination' on a European site?	East Devon District Council concludes that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the proposal at Lympstone Nurseries in the absence of mitigation. See evidence documents on impact of development on SPA/SAC at: East Devon District Council - http://eastdevon.gov.uk/media/369997/exe-overarching-report-9th-june-2014.pdf An Appropriate Assessment of the plan or proposal is necessary .
---	---

Local Authority Officer		Date:
-------------------------	--	-------

Step 2

Appropriate Assessment

NB: In undertaking the appropriate assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain the authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.

In-combination Effects

Plans or projects with potential cumulative in-combination impacts. How impacts of current proposal combine with other plans or projects individually or severally.	Additional housing or tourist accommodation within 10km of the SPA/SAC add to the existing issues of damage and disturbance arising from recreational use. In –combination plans/projects include around 29,000 new dwellings allocated around the estuary in Teignbridge, Exeter and East Devon Local Plans. This many houses equates to around 65,000 additional people contributing to recreational impacts.
Mitigation of in-combination effects.	The Joint Approach sets out a mechanism by which developers can make a standard contribution to mitigation measures delivered by the South East Devon Habitat Regulations Partnership. Residential development is also liable for CIL and a proportion of CIL income is spent on Habitats Regulations Infrastructure. A Suitable Alternative Natural Green Space (SANGS) has been delivered at Dawlish and a second is planned at South West Exeter to attract recreational use away from the Exe Estuary and Dawlish Warren.

Assessment of Impacts with Mitigation Measures

Mitigation measures included in the proposal.	Joint approach standard mitigation contribution required <ul style="list-style-type: none">Residential units £201.61 x 10 (the additional number of units)=£2061.10
Are the proposed mitigation measures sufficient to overcome the likely significant effects?	Yes - the Joint Approach contribution offered is considered to be sufficient.

Conclusion

List of mitigation measures and safeguards	Total Joint Approach contribution of £2061.10 <i>here</i> has been secured by Unilateral Undertaking	
The Integrity Test	Adverse impacts on features necessary to maintain the integrity of the Lympstone Nurseries, Lympstone, can be ruled out.	
Conclusion of Appropriate Assessment	East Devon District Council concludes that there would be NO adverse effect on integrity of Dawlish Warren SAC, Exe Estuary SPA or Pebblebed Heaths SPA/SAC or Exe Estuary Ramsar sites provided the mitigation measures are secured as above.	
Local Authority Officer		Date:

21 day consultation to be sent to Natural England Hub on completion of this form.