



Appeal Decision

Hearing held on 5 November 2024

Site visit made on 6 November 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/U1105/W/24/3341996

Council Offices, Lane To The Knowle, Knowle, Sidmouth, Devon EX10 8HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paull, McCarthy and Stone Retirement Lifestyles Ltd against the decision of East Devon District Council.
 - The application Ref is 23/0571/MFUL.
 - The development proposed is Redevelopment of site to provide: a) Care home building (Class C2) with associated parking, landscaping, staff and resident facilities and associated works, b) Extra care apartment building (53 units) with associated communal lounge, wellbeing suite, restaurant and care provision (class C2) c) Retirement living apartment building (33 units) with associated communal lounge d) Erection of 4 houses, and 3 townhouses (Class C3). Along with accesses; internal car parking, roads, paths, retaining walls, refuse and landscaping associated with development. Retention/refurbishment of building B, erection of habitat building and sub-stations. (Demolition of buildings other than building B).
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site to provide: a) Care home building (Class C2) with associated parking, landscaping, staff and resident facilities and associated works, b) Extra care apartment building (53 units) with associated communal lounge, wellbeing suite, restaurant and care provision (class C2) c) Retirement living apartment building (33 units) with associated communal lounge d) Erection of 4 houses, and 3 townhouses (Class C3). Along with accesses; internal car parking, roads, paths, retaining walls, refuse and landscaping associated with development. Retention/refurbishment of building B, erection of habitat building and sub-stations. (Demolition of buildings other than building B) at Council Offices, Lane To The Knowle, Knowle, Sidmouth, Devon, EX10 8HL in accordance with the terms of the application, Ref 23/0571/MFUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. The appellant submitted amended plans with the appeal documentation. I have carefully considered the implications of accepting these amendments in

light of the Planning Inspectorate's Procedural Guide: Planning Appeals, England (2024) (the Procedural Guide) and the Holborn judgement¹.

4. The Procedural Guide advises that the appeal process should not be used to evolve a scheme. With regards to the Holborn judgement, it must be considered whether the proposed amendment involves a substantial difference or fundamental change to the application, and if any proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
5. In this instance, the amended drawings formed part of a second planning application which was submitted to the Council in February 2024 (Council Ref: 24/0263/FUL). Consequently, the amended drawings were the subject of public consultation. I have been provided with copies of consultation responses in relation to both of the planning applications and interested parties and the Council have had the opportunity to submit comments on the amended plans at the appeal stage. In these circumstances, I am satisfied that my consideration of the proposed amendments would cause no injustice to any party. For the avoidance of doubt, I have determined the appeal on the basis of the amended plans.
6. A previous appeal (Ref: APP/U1105/W/17/3177340) at the site was allowed and planning permission granted in 2018 for an assisted living community for older people comprising extra care units, staff accommodation and communal facilities, including a kitchen, restaurant/bar/café, a well-being suite comprising gym, treatment rooms and pool, a communal lounge and storage facilities; car parking for residents, visitors and staff of the assisted living community; comprehensive landscaping comprising communal and private spaces; and associated groundworks. The main parties agree that a material start to this development has been made on site, and that this extant planning permission represents a 'fallback' position.
7. A completed legal agreement under Section 106 of the Planning Act (S106) was submitted following the hearing². The agreement includes obligations relating to care packages for the occupiers of the Extra Care accommodation, the provision of publicly accessible paths through the appeal site, the relocation of an important tree on site, landscape works, management company provisions and habitat mitigation payments.

Main Issues

8. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers with particular reference to outlook and the effect on privacy to Chestnuts, The Cotswolds and Knowle House.

Reasons

Character and appearance

9. The site accommodates a series of buildings that were formerly the offices and service depot of the Council, and which have been vacant for a number of

¹ 1 Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² Document 3

years. The buildings stand on the highest part of the undulating site with car parking areas stepping downwards towards Station Road. The southern part of the office buildings has suffered from significant fire damage. Overall, the disused and dilapidated buildings, which are surrounded by areas of security fencing, do not positively contribute to the character or appearance of the area.

10. A substantial area of publicly accessible parkland, known as The Knowle surrounds the buildings to the south and east, accommodating numerous mature trees and forming a centrepiece for the town's Arboretum. The Sid Valley Neighbourhood Plan (2019) (SVNP) identifies the parkland as forming part of the attractive approach to Sidmouth, providing an important contribution to the overall historic character and landscape of the town.
11. The Sid Valley - Place Analysis (2018) identifies the appeal site within the Bickwell Valley Character Area (BVCA). Its key features are described as detached villas in large gardens, distinctive historic buildings, significant tree coverage and high quality public and private spaces. The gardens of detached residential villas adjoin the site's boundaries on Knowle Drive and Broadway.
12. The existing buildings on the site would be demolished with the exception of the former caretaker building known as 'Building B' which would be retained to provide a dedicated bat habitat. The Statement of Common Ground (SoCG), which was agreed between the appellant and the Council, confirms that the principle of the demolition of the buildings is agreed. Equally, the Council has no objection to the design of the care home building which would be positioned to the north of the site, or the seven dwellings located to the west. Rather, the Council's concerns relate to the scale, height, bulk and massing of the retirement living block (RL) and the retirement living plus block (RLP) and their effect on the public gardens and parkland, as well as the street scene on Knowle Drive.
13. The appellant's Design and Access Statement and Addendum³ set out in extensive detail the guiding considerations of the site context, constraints, opportunities and design rationale for the scheme. This includes explanation of the site's two main character areas. Firstly, 'The Dell', which is surrounded by woodland within which the care home would be located. Secondly, 'The Plateau' which, as a result of its significantly sloping topography, would be more prominent in views from the south, and would contain a variety of buildings, including the RL and RLP blocks, of differing forms and scale.
14. The proposed masterplan has been developed around the principle of maintaining a series of visually linked green spaces, the focal point of which is a central, landscaped courtyard between the RL and RLP blocks which would provide impressive views across the adjoining parkland towards the sea. Whilst there would not be direct access from the courtyard to the adjoining parkland, the creation of new permissive paths would provide legible pedestrian access through the site.
15. The existing buildings within the appeal site, form a complex of substantial buildings with large footprints which do not address Knowle Drive or Broadway. As a result, they stand apart from the finer urban grain of these

³ Design and Access Statement (March 2023); Design and Access Statement – Addendum (September 2023); Design and Access Statement Addendum (March 2024)

adjoining streets. Consequently, their replacement with buildings which are larger and taller than the surrounding residential properties would not be uncharacteristic.

16. The strong variation in topography within the site and surrounding landscape, combined with the extensive mature vegetation create a high level of visual containment. As a consequence, the site is not particularly prominent in surrounding mid and longer distance views. The north-south planform of the RL and RLP blocks would follow the site topography which drops to the south. Whilst this would be a different approach to the layout of dwellings on Broadway and The Knowle, the development is considerably larger in scale than these properties. The massing of the buildings in this area would enable a sensitive progression in the height of the RL and RLP blocks, and they would terminate with southern elements one storey taller than the northern parts of the building, whilst retaining a consistent roof ridge line. As a result, I find that the layout of the buildings would be an appropriate design response to the irregular topography within the site.
17. The Townscape and Visual Impact Statement⁴ (TVIS) assesses the proposal's effects on townscape character, features and views which are illustrated through 6 verifiable photomontages. Photomontages P1 and P2 demonstrate that there would be minimal changes in these Knowle Drive viewpoints, which would be largely limited to the introduction of small-scale pitched roof massing and a gable end instead of the existing, disused red brick flat-roofed office block.
18. The Council has particular concern about the visual impact of the RL block from a viewpoint in front of 'Old Walls' on Knowle Drive. During the hearing, the appellant confirmed that they were not asked to provide a photomontage from this position. When viewed from this location, the arrangement of the built form of the RL and RLP blocks would front a landscaped, central terrace area, allowing views between the buildings. This would create a sense of permeability towards the south which would be in contrast to the existing southern building which currently extends across much of the width of the site, diminishing the sense of permeability.
19. The RL and RLP blocks' elevations would be long. However, they would be articulated with a variety of metal and brick framed balconies, alternation between brickwork and render, and a characterful roofscape featuring a mixture of gables with varying proportions. These features, combined with the extensive landscaping within the central courtyard and to the west of the RL block would break up the proposed massing. This would successfully mediate the sense of scale and bulk ensuring that the buildings would not appear excessive in length.
20. The site is covered by an area Tree Preservation Order⁵. Relatively few trees would be removed as a result of the development, and would be supplemented by replacement planting. The retained trees and vegetation, when combined with the generous landscape spaces, would ensure a verdant setting to the new buildings. This would be beneficial to the character of the BVCA and the setting of the adjoining parkland.

⁴ Townscape and Visual Impact Statement prepared by Stantec (March 2023) and Townscape and Visual Impact Statement Addendum prepared by Stantec (March 2024)

⁵ Ref 56/0001/TPO

21. TVIS Photomontages P3 and P4 show the proposal in views from within the adjoining parkland. These demonstrate that the buildings' increased height and massing would be viewed within the setting of mature vegetation. Within these views the RLP block's height would not generally exceed the existing canopy of trees. In winter periods when the trees would have a reduced screening effect, the views would largely be pitched roofs, gables and a mix of facing materials within the elevation which would create visual interest. Visibility in itself is not harmful, and whilst the buildings would be taller than the existing buildings, I do not consider that they would appear excessive in terms of their scale or height given the spacious, verdant context which they would be comfortably sited within.
22. The southern elevations of both the RL and RLP blocks would be prominent when viewed from the lower parkland immediately to the south. The footprints of the buildings would also project further towards the parkland than the existing buildings or the extant planning permission. Whilst they would be prominent, the RL and RLP blocks' southern elevations would stand as proud and visually interesting additions creating a focal point when viewed from the adjoining parkland, which would positively contribute to the character of the area. The two blocks would be taller than other buildings in the vicinity in order to form landmark buildings. As large, prominent buildings are a feature of views of the appeal site from the south, the principle of landmark buildings in this location has been established.
23. The central courtyard between the two blocks would be generously proportioned and landscaped, and would create a significant break in the built form which would mediate the buildings' massing when viewed from the parkland to the south.
24. In this regard, the proposal would successfully assimilate with the built context, and I note that Paragraph 135 of the Framework states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change such as increased densities.
25. The design of the RL and RLP blocks embrace a confident reinterpretation of Regency architecture, which assists in creating a positive new character for the site. This architectural approach would reference the coastal vernacular of local landmark buildings within Sidmouth, as demonstrated in detail within the appellant's Design and Access Statement Addendum. Key features include an asymmetric, gabled and hipped roofscape, metal balustrading and a pergola/dress balcony arrangement. The subdivided panes within the large south facing fenestration would provide further architectural richness. The gables and large, pronounced, dormer windows, of varying design would break up the roofline, adding complexity and interest to the roof form. Whilst elements of the facades would provide strong vertical accents, the layering of wide metal balustrading and use of polychromatic brickwork at lower floor levels provides a balancing horizontal emphasis. Overall, the facades would be well balanced compositions.
26. The RLP's northern elevation would be particularly blank. Whilst it would be visible in views from the nearby permissive footpath, the surrounding vegetation would filter it from more distant viewpoints. Its design is a necessary consequence of the location of the adjacent bat colony, which

requires low light levels facilitated through the omission of windows and balconies. The lower parts of the elevation would be somewhat screened by Building B which is to be retained, and it would feature mock windows to provide a level of visual interest. Whilst not a positive design feature, a single, largely blank elevation within a fairly visually contained part of the site, would not significantly reduce the overall design quality of the proposal, which I have found would make a positive contribution to the character and appearance of the area.

27. Properties on Broadway and Knowle Drive exhibit a varied mix of facing materials, including red and lighter toned brickwork, and painted and rendered elevations. Consequently, the care home materials which include cream/buff brickwork and stone surrounds to windows would not be uncharacteristic. The small-scale clay tile to the top floor would provide a reference to the use of tiles within roofs across the BVCA.
28. Within the Plateau, whilst the buildings have differing typologies they would be united through the use of similar materials. This includes the use of white render, buff brickwork and polychromatic brickwork, white window frames, metal balustrading and roof tiles. The use of these materials would be an appropriate design response. Whilst the Council has raised concerns about the exact colour of the brickwork to be used, a planning condition is proposed requiring the submission of details and samples of the relevant materials.
29. Strategy 26 of the East Devon Local Plan 2013-2031 (2016) (EDLP) allocates the appeal site for a residential development of 50 homes. Whilst the number of residential units provided would significantly exceed this figure, Strategy 26 does not indicate that this figure is absolute. Furthermore, as set out above, I have found that the proposal would not cause harm to the character and appearance of the area.
30. Accordingly, I find no conflict with Strategies 6 and 26 of the EDLP, or Policy 7 of the SVNPs. Taken together these, amongst other things, support development within built-up areas where compatible with the site and its surroundings; seek to reinforce local distinctiveness, including through the use of local materials, and require high quality design which has regard to the Sid Valley - Place Analysis. I also find no conflict with the aims of the Framework which require that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living conditions

31. As set out in the SoCG, the Council's reason for refusal relates to the properties on Knowle Drive known as Chestnuts, The Cotswolds and Knowle House. The rear gardens of these three houses share a boundary with the appeal site. The ground levels of the properties' rear gardens slope downwards from the site boundary. As a result, the houses are positioned at a lower level than the part of the appeal site immediately beyond the shared boundary.
32. The northern part of the RL block would be three storeys in height, increasing to four storeys as a result of the decreasing ground levels to the south of the appeal site. Its western elevation would introduce a large number of windows as well as ground and first floor level balconies facing the three properties.

33. During the hearing the Council confirmed their view that the occupiers of Chestnuts, The Cotswolds and Knowle House have less tolerance for changes to the privacy of their gardens than other properties which may already have a lower level of privacy. However, I observed during my site visit that the gardens of these properties already experience a degree of mutual overlooking between each other, which is common within a residential area such as this.
34. The RL block's built form would extend across less than half the width of Chestnuts' rear garden boundary. Its elevation would be approximately 21 metres from the shared boundary with Chestnuts' garden, and 41 metres from its rear elevation. Furthermore, the appellant's Tree Protection Plan, which can be secured by planning condition, indicates that the line of Lawson Cypress trees, which are between 10 and 13 metres in height, and span much of the shared boundary would be retained. This mature boundary vegetation would filter the neighbouring occupiers' views of the building from the garden and house. It would also screen views from the RL block's windows and balconies towards the garden. Consequently, the position of the proposed building, the retention of existing mature vegetation and the good level of separation are such that the RL block would not appear dominant or overbearing, nor result in a harmful loss of privacy for the neighbouring occupiers of Chestnuts.
35. The Cotswolds and Knowle House have dense rear boundary hedgerows which are approximately 3 - 4 metres in height. At present, the hedgerows combined with vegetation within the appeal site provide a dense visual barrier, and the existing buildings on the appeal site are barely perceptible in views from both properties' gardens.
36. The appellants' Tree Protection Plan identifies that a number of trees within the appeal site, including a Sycamore, a large Eucalyptus, a Cypress and a group of Yews located on or around the shared boundary would be felled. Replacement trees, which would be a mix of Scots Pine, Whitebeam and Oaks, are proposed between the shared boundary and RL block. Whilst they would grow in height over the years, they would not be full height at the time of planting, and would therefore provide limited screening benefits initially. However, the RL block would be separated from the boundary with The Cotswolds and Knowle House by a landscaped area and a car park providing two rows of parking bays. Consequently, whilst it would have a greater visual impact than the existing buildings in this location, the RL block would be a significant distance from the rear boundaries of these properties.
37. During the hearing, the Council confirmed that they do not have specific guidance which details suggested separation distances between proposed development and residential gardens or nearest residential windows. The appellant's cross section drawings⁶ indicate that the distances between the rear elevations of The Cotswolds and Knowle House to the western elevation of the RL block would range from 43 metres to 53 metres. The block would be between 23 metres and 25 metres from the properties' rear garden boundaries. These are very generous distances given the residential character of the area.
38. At these distances the building would not be overly oppressive to the extent that it would significantly harm the level of outlook for occupiers of The Cotswolds or Knowle House when viewed from the nearest residential windows

⁶ March 2024 Design and Access Addendum (pages 14-16)

or within gardens. In coming to this view, I have taken into account the proposed height and elevational design of the block.

39. During the hearing, interested parties outlined that the majority of the units within the block would be single aspect, with the sole aspect from their living space facing the neighbouring properties. I also accept that future residents are likely to spend large periods of time within the units.
40. Given the height of the existing boundary planting within the neighbouring properties, the line of sight from the balconies and windows at ground and first floor levels would be well screened. Consequently, there would be very limited views into the parts of the gardens closest to the boundary. Whilst the windows on the upper floors would have views towards the gardens and windows of The Cotswolds and Knowle House, given the separation distances, and in the absence of any specific guidance, I do not find that neighbouring occupiers would suffer a harmful loss of privacy either within habitable rooms or their gardens.
41. Balconies are also proposed on the southern elevation of the RL block which would allow views towards Knowle House. However, given the separation distances to the neighbouring property, I do not consider that this would cause a harmful loss of privacy to the neighbouring occupiers.
42. For the reasons outlined above, I conclude that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers. Accordingly, I find no conflict with Policy D1 of the EDLP or Policy 6 of the SVNPs which seek to protect the living conditions of occupiers of neighbouring properties. For similar reasons, the proposal complies with paragraph 135 of the Framework which requires that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

Heritage Assets

43. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me, in determining this appeal, 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 also to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
44. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.

Listed Buildings

45. A Grade II Listed summerhouse stands just beyond the site boundary on a terraced lawn to the south of the proposal. A house within the appeal site was purchased by Thomas Fish in 1820, and he undertook extensive alterations to

the house and gardens during the early 19th Century. It appears that the summerhouse was built by Mr Fish during this time.

46. The List description describes the summerhouse as a ruined and overgrown Gothic summerhouse in flint rubble and incorporating shell work. It is likely to have been a feature within the landscaped gardens associated with the main house which were laid out by Mr Fish. The significance of the summerhouse is primarily derived from its curiosity value, but also from its historic use as an outbuilding to the house and as a place to enjoy the gardens.
47. The spacious and verdant parkland and views towards the sea to the south of the summerhouse contribute positively to its setting and thus special interest and significance. As a result of the growth of trees and vegetation in very close proximity to the summerhouse, its remains are largely hidden amongst landscaping. Therefore, it is largely viewed in isolation, and there is very limited remaining functional or visual relationship between the summerhouse and the buildings within the appeal site.
48. The proposal would retain the landscaping surrounding the summerhouse, including a large Yew tree. Consequently, there would be limited intervisibility between the summerhouse and the proposal. Although the RL and RLP blocks would be closer to the summerhouse and different in design, scale, massing and siting than the existing buildings, a reasonable separation distance would be maintained. The summerhouse would continue to be seen in its landscaped context, albeit with an altered backdrop.
49. The most important aspects of the summerhouse's setting are its location within landscaped gardens and its original function as a curiosity. It would remain as a place from which the landscaped surroundings could be viewed and enjoyed. Given the above I conclude that, on balance, the proposal would preserve the special interest and setting of the Grade II Listed summerhouse.
50. A Grade II Listed lodge building is located adjacent to Station Road and the drive which leads to the appeal site. The List description describes it as an early to mid 19th century lodge probably dating from Mr Fish's occupation of the main house. It is two storeys in height with 'crazed rubble' stonework to the elevations and a mixture of gabled and hipped ends, with bargeboards with tracery pattern and finials. The significance of the lodge building is derived mostly from its age and architectural quality.
51. The lodge is now a private dwelling with no public access and has been functionally separated from the appeal site and surrounding parkland. The drive leads into The Dell area of the appeal site where the care home would be located and which is currently a car park, approximately seventy metres from the lodge building. The drive is very well screened by tall, dense planting, such that there is very limited visibility of the lodge from the car park and vice versa. The flat roof design of the care home would assist in limiting its overall height and massing.
52. Due to the extent of vegetation screening and the large separation distance, the proposal would only be evident within limited filtered views from Station Road in the vicinity of the lodge building. As a result, the design and mass of the proposal would not be prominent in views of the Listed building. Consequently, the proposal would have a neutral effect on its setting, and I

conclude that it would preserve the special interest and setting of the Grade II listed building.

Conservation Area

53. The appeal site does not lie within a conservation area but is close to the boundaries of the Sidmouth Town Conservation Area, which encapsulates the seaside town of Sidmouth and includes the town centre and seafront, and the Elysian Fields Conservation Area, an area of open space and surrounding buildings along the River Sid.
54. The significance of the town centre and seafront area is primarily derived from the grand architecture within the town centre and esplanade, including a number of Regency buildings. Closer to the appeal site, Station Road features characterful stone walls and a number of historic properties. The significance of the Elysian Fields Conservation Area is primarily derived from the generously sized villas and Regency buildings often within well landscaped plots, and including some substantial trees.
55. The Bickwell Valley Conservation Area located further to the west of the appeal site encompasses three residential roads, largely characterised by large detached houses in a well wooded-setting. Its significance is derived from the variety of early twentieth century houses, including examples of Arts and Crafts styles. Given the distances involved and well vegetated character of the area, the built form would not be particularly visible from distant viewpoints and would not read as harmful in these isolated views.
56. The topography and wide extent of tree cover in the area around the Knowle ensure that the proposal would not interrupt any important views into or out of the Sidmouth Town or Elysian Fields Conservation Areas. Nor would the proposal be especially prominent in views of the conservation areas or detract from the qualities of the areas. Consequently, it is my view that the proposal would not be detrimental to the setting of the conservation areas and would thus preserve their character or appearance and significance, as a whole.

Pebblebed SAC and SPA

57. The site is within the zone of influence of the East Devon Pebblebed Heath Special Area of Conservation (SAC) and Special Protection Area (SPA) set out in the South-East Devon European Site Mitigation Strategy (SEDEMS), which was commissioned by Exeter City Council, Teignbridge District Council and East Devon District Council.
58. The SAC and SPA are designated in order to safeguard ecology and the habitat upon which various species are reliant, notably the Southern Damselfly, Nightjar, and Dartford Warbler. Ecology can be disturbed by recreational activities within the SAC and SPA, including predation from domestic pets, the trampling of heathland, fires, and nitrogen impacts from dog waste.
59. The Conservation of Habitat and Species Regulations 2017 (the Habitats Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SAC and SPA. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.

60. It is anticipated that new residential development in this area is likely to have a significant effect, when considered either alone or in combination, upon the interest features of the European sites due to the risk of increased recreational pressure. An appropriate assessment is required in line with the Habitats Regulations.
61. The SEDEMS requires avoidance or mitigation of effects resulting from residential pressure to be achieved by the provision of alternative greenspace, to redirect those who would have made use of the SPA recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make are established at a strategic level, such that a proportionate contribution is made relative to development proposed. As secured via the S106, there is an associated contribution of £196.81 per new unit, in line with the Council's latest position in this regard.
62. The SEDEMS has been arrived at in conjunction with Natural England. Natural England has also made representations on this proposal to the effect that, subject to securing the per unit contribution, there would not be an adverse effect on the ecological integrity of the habitats sites. I am therefore satisfied that the mitigation described above has been appropriately secured and that the proposal, either alone or in combination with other projects, would not adversely affect the integrity of these habitats sites.

Beer Quarry Caves

63. The site is within the bat Landscape Connectivity Zone associated with the Beer Quarry and Caves Special Area of Conservation (SAC). The SAC includes a complex of abandoned mines which are regularly used as a hibernation site by Bechstein's Bats, as well as Lesser and Greater Horseshoe Bats, which are the SAC's qualifying features. The conservation objectives for the SAC relate to ensuring that the integrity of the site is maintained or restored as appropriate, and ensuring that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features. This is to be achieved by maintaining or restoring the extent and distribution of the habitats of qualifying species and the population and distribution of the qualifying species themselves.
64. Bat roosts are present in three of the main buildings. The site (primarily Building B and the linking structure of Building C) supports a historic and significant lesser horseshoe bat maternity and hibernation roost, as well as a greater horseshoe bat day roost. The roost is considered of Regional importance and is considered as an 'Other roost' in accordance with Beer Quarry and Caves HRA Guidelines (2022).
65. Therefore, possible impacts on the integrity of the SAC would arise through any effects on the ability of the Bechstein's Bats, as well as Lesser and Greater Horseshoe Bats to roost within or commute through the site. Significant effects are therefore considered likely and an Appropriate Assessment is required under Regulation 63 of the Habitats Regulations.
66. The appellant's Shadow Habitats Regulations Assessment identifies a range of measures designed to minimise disruption to the opportunities across the site for bat roosting, commuting and foraging. The general mitigation measures include the full retention of Building B and retaining wall of Building C as a dedicated bat roost and the provision of an additional dedicated bat house.

Buildings A and C will be demolished, subject to the receipt of a European Protected Species Mitigation Licence granted by Natural England as the licencing body.

67. Further mitigation includes the installation of bat boxes, a sensitive lighting scheme during construction and operation, the submission of a Construction Environmental Management Plan and Landscape and Ecological Management Plan, and the requirement that all works shall be carried out in strict accordance with the submitted Bat Ecological Impact Assessment and addendums. Each of these requirements can be secured by way of condition. Natural England has confirmed that these conditions would be sufficient to avoid adverse impact upon the integrity of Beer Quarry Caves SAC.
68. In view of the above, I therefore conclude that, having regard to the evidence available and the mitigation measures that would be secured by way of planning conditions, the proposed development will not produce a detrimental effect upon the integrity of the Beer Quarry Caves SAC either alone, or in combination with other development proposals.
69. The Habitats Regulations are also relevant insofar as the proposal will involve the demolition of buildings from the site that are used, or have been used, by bat species. Bats are listed in Annex 2 of the Habitats Regulations. Whilst not a matter disputed by the main parties, I have considered the three derogation tests.
70. The first test requires that a valid basis is demonstrated for the purpose of the licence. To this end, it is clear that there are imperative reasons of overriding public interest, including those of a social or economic nature to warrant granting planning permission. The site is a significant redevelopment opportunity in the urban area of Sidmouth, which currently hosts derelict and fire damaged former commercial buildings. The site is allocated for a residential redevelopment and this cannot come forward without demolition of the majority of the damaged buildings on site.
71. The second test requires a demonstration that there are no reasonable options with lower impacts. As outlined above, the extensive mitigation measures include the full retention of Building B and retaining wall of Building C as a dedicated bat roost and the provision of an additional dedicated bat house. The demolition of other buildings within the site, which are in states of disrepair is necessary to secure a comprehensive redevelopment scheme for the site. Consequently, I find that there are no reasonable options with lower impacts than the proposal.
72. The third test is to show that granting the licence will not cause long-term impacts on the species concerned. The retention of 'Building B' as a dedicated bat roost and the provision of an additional dedicated bat house will ensure the avoidance of long-term impacts on all bat species. These measures will be secured by way of planning conditions. Furthermore, a sensitive lighting scheme during construction and operation would maintain the dark corridors throughout the site. During the construction phase, appropriate control measures would need to be in place to avoid any harms arising from such activities, such as a Construction Environmental Management Plan. This is also capable of being secured by a planning condition.

73. As the competent authority for the purposes of the Habitats Regulations, I have considered the three tests in the context of the retention of Building B and retaining wall of Building C as a dedicated bat roost and related mitigation measures. Consequently, I have no reason to doubt that a mitigation license would not be issued.

Interested parties

74. A significant number of concerns from interested parties have been raised in relation to the development.
75. A large number of interested parties' concerns related to the effect of the care home on the character and appearance of the area. The design of the care home does not seek to replicate other local buildings, and instead develops its own character. The building's footprint is similar to that of the building in the same location which was approved within the extant permission, and its flat roof design would ensure that its overall height is fairly low. The material palette, which features cream/buff brickwork is suitable within the existing context, albeit final details of materials would be secured by planning condition. Despite the removal of some trees in this area of the site, the care home would remain surrounded by woodland which positively contributes to the character of the area and would filter views of the building. Overall, I agree with the Council's conclusions on these matters which was that there would be no unacceptable harm in this respect.
76. Interested parties have concerns about the effect of the proposal on the living conditions of neighbouring occupiers, in particular in relation to the effect of the care home on nearby properties within Knowle Drive and Broadway. Specifically, the concerns relate to the potential loss of natural light, privacy and outlook for occupiers of neighbouring properties. During my site visit I was able to view the proposals from 6 Knowle Drive.
77. Properties on Knowle Drive are positioned on higher land than the appeal site. There would be significant separation distance between the proposed built form and the rear of properties on Knowle Drive. The configuration of the care home is such that the nearest built form with residential windows and roof terraces would be a significant distance from the boundary with the properties on Knowle Drive, and I do not find harm to the living conditions of neighbouring occupiers in terms of overlooking or loss of natural light. I have imposed a planning condition which requires the provision of details of screening from the northern aspect of the care home's terrace in order to prevent harmful overlooking towards residential properties on Broadway.
78. In relation to concerns from noise, I have imposed a planning condition which would limit the noise levels from new plant equipment. Whilst the terraced areas to the north of the care home would be a reasonable size, I have not been provided with substantive evidence to demonstrate that the recreational use of the terrace by future occupiers would have a harmful effect in relation to noise.
79. In relation to concerns about harmful overlooking between residential windows and balconies within the RL and RLP, the appellant confirmed during the hearing that the separation distances between the blocks would be in the region of 21 metres. Given this separation distance, I do not find harm to the living conditions of future occupiers of the proposal.

80. A number of parties have raised concerns about the proposal's impact on drainage, surface water, foul water and flooding. Both Devon County Council as the Lead Local Flood Authority and South West Water (SWW) have been consulted and raised no objection to the proposal.
81. In particular, SWW has not raised concern that the existing foul or surface water system is at capacity or would be compromised by the development proposed. In terms of flood risk, the appellant's Flood Risk Assessment confirms that the proposal would not be at risk from flooding, nor would the development displace flood water which could increase flood risk to other properties. A detailed surface water planning condition is imposed which requires the submission of details to be approved in consultation with SWW and the Lead Local Flood Authority prior to the commencement of development. Overall, I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters which was that there would be no unacceptable harm in these respects.
82. Significant concerns have been raised about the effects of construction on neighbouring occupiers, and in particular, the impact of construction workers parking vehicles on the surrounding highways network. For this reason, I have imposed a condition requiring the submission of a Construction Management Plan to mitigate the effect of construction works, including the impacts upon the local highway network. The condition includes a specific requirement to provide details of parking arrangements for construction workers. Concerns related to damage to neighbouring properties during construction works are a private matter.
83. The Council raised no concerns in respect of highway safety on the surrounding road network, or the provision of car parking for residents, staff and visitors. The County Highway Authority has confirmed that a policy compliant quantum of parking would be provided. Subject to suitable conditions I similarly find no harm in this respect.
84. Interested parties have raised concerns about the absence of affordable housing provision within the proposal. The submitted evidence, including the SoCG, indicates that Vacant Building Credit (VBC) applies. Following an independent viability assessment, the main parties are in agreement that, in this instance, no contributions to affordable housing are liable.
85. Interested parties state that other similar developments for elderly residents have been occupied by new residents moving to the town. I have not been provided with substantive evidence in relation to this matter. Furthermore, I note that the EDLP outlines that the population of East Devon is already older than the national average and will continue an ageing trend for decades. A Key Plan Objective outlined within the EDLP is the provision of suitable retirement and downsizing accommodation with the aim of encouraging health and independence. The proposal would positively contribute to this provision.
86. The site is located outside the East Devon National Landscape (formerly known as the East Devon Area of Outstanding Natural Beauty), but is visible from viewpoints within it. Paragraph 189 of the Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection. Photomontage P5 of the TVIS addendum provides a view from the East Devon

National Landscape. The building's built form would be just perceptible within the wider townscape and existing vegetation. The TVIS addendum concludes that the articulation of the massing of the proposed built form is more varied and interesting than that of the existing buildings on the site. It is therefore considered that there would be a very low magnitude of beneficial change in the view. Having considered the proposal and visited the site, I concur with that finding and consider that the development would conserve and enhance the natural beauty of the National Landscape.

87. It has been suggested that the proposal would set a precedent for building on green sites within East Devon. As I have found that the proposal would cause no harm to the character and appearance of the area it would not create a precedent for other developments that would cause harmful effects in this regard.
88. In order to prevent a loss of biodiversity or harm to protected species, detailed conditions are imposed to require various measures including a Construction and Ecological Management Plan (CECoMP), Landscape and Ecology Management Plan (LEMP) and a Lighting Impact Assessment. Notably, as outlined above, the proposals also include the retention of the former caretaker building and the erection of a purpose built bat building to provide dedicated bat habitats.
89. Whilst there would be some loss of trees to accommodate the proposal, this would not undermine the established verdant character of the area. The majority of the trees are to be retained, including to the south and east side of the current access drive. While a number of trees would be lost from the areas adjacent to Knowle Drive, the Council confirm that these are generally lower quality specimens. Their loss in the context of the wider parkland is not considered to be significant given that the more prominent trees are within the upper areas of the parkland outside of the application site.
90. In relation to concerns about the proposal overlooking the public garden area, this area is not currently private and the proposal would provide active surveillance of the public gardens which is beneficial. Interested parties state that the extant permission at the site provided facilities which would be accessible to members of the public. Whilst accessible facilities are not proposed within this appeal scheme, I have not been referred to any planning policy which would require such provision.
91. Interested parties have raised concerns related to the effect of the proposal on the significant existing strain on healthcare resources in Sidmouth. Comments from the local Sid Valley Practice and NHS Foundation Trust identify the Practice's struggles related to a reduction in partners from retirement and difficulties with recruitment of new medical professionals. It is suggested that high dependency beds often require a higher level of primary care input and the proposal will create a significant and ongoing demand to their staff, potentially impacting on their ability to maintain services to their current patient population.
92. However, it is common ground between the main parties that a range of public benefits would arise from the development. Most significant of these is the provision of 'housing with care' and a care home. The Council agree there is a significant level of need for 'housing with care' in the Borough. There is also an agreed need for care home bedspaces.

93. The need to provide housing for older people nationally is critical as set out in the National Planning Practice Guidance⁷ (PPG). There is no doubt that there is a clear and pressing need for this type of development in East Devon. Consequently, the provision of 'housing with care' and a care home are afforded substantial weight.
94. The appellant's submitted evidence⁸ also confirms that people living in homes for later living typically experience a reduced risk of health challenges, which contribute to savings for the NHS and social care services of approximately £3,500 per year, and are also likely to make a reduced number of yearly GP visits compared to the national average.
95. The proposal would also bring about further benefits which would include freeing up market housing, economic benefits in terms of job creation, health and wellbeing benefits to future residents, retention and improvement of public access through the site, and the provision of a heritage interpretation board related to the Listed summerhouse. All of these matters weigh in favour of the development.

Planning Obligation

96. A signed and dated agreement under S106 of the Town and Country Planning Act 1990 has been submitted which provides for various obligations. In line with Regulation 122 of the CIL Regulations 2010 (as amended), the Framework explains in paragraph 58 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It is therefore necessary for me to consider these obligations and reach a finding on them having regard to the above tests.
97. First are obligations relating to occupancy of the Extra Care accommodation, including an age restriction, the requirement for the health assessment of occupiers, the level of personal care provided for occupiers and a care agency commitment. These are necessary given the specific nature of the development applied for.
98. Also included is an obligation related to the provision of publicly accessible permissive paths through the site. This is necessary, as without the ability to cross the appeal site, pedestrians would face a lengthy and circuitous route around the site. Obligations relating to the relocation of a prominent Ginkgo tree, landscaping works and long-term maintenance of the site are necessary to preserve a valued tree which would otherwise be lost, and to comply with Policy D2 of the EDLP which requires landscaping schemes to meet a range of criteria, including long-term maintenance.
99. An obligation relating to management company provisions is necessary to ensure that key components of the scheme, for instance surface water attenuation tanks, are properly managed and maintained. A habitat mitigation contribution related to East Devon Pebblebed Heaths SAC and SPA is necessary for the reasons outlined above. A monitoring fee is also included.

⁷ Paragraph: 001 Reference ID: 63-001-20190626

⁸ Enclosure 7 of Appellant's Statement of Case – Healthier and Happier Homes for Later Living (2019)

100. The parties agree that these contributions meet the requirements of CIL Regulation 122 and the tests for planning obligations set out in the Framework and I am satisfied that this is the case.

Conditions

101. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the PPG. I have made such amendments as necessary to comply with those documents and for clarity and consistency.

102. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.

103. I have secured appropriate ecological mitigation measures, including in respect of the bat colony on site. This includes conditions requiring a phasing plan, a Construction and Ecological Management Plan (CECoMP), Landscape and Ecology Management Plan (LEMP) and Lighting Impact Assessments. Similarly, conditions requiring the works to be carried out in strict accordance with the Ecological Impact Assessment, and Bat Impact Assessment, and controlling the demolition works of confirmed bat roosts are necessary to prevent harm to protected species. Given the site's biodiversity sensitivity, I consider the Council's suggested wording in relation to the LEMP planning condition is reasonable and necessary in accordance with paragraph 57 of the Framework.

104. Conditions requiring details and samples of the external materials, detailed drawings of key parts of the proposal and details of vents, flues and meter boxes, garden furniture, and a site levels plan are necessary in the interests of the character and appearance of the area. In the interests of preserving the setting of the heritage asset, I have imposed a condition requiring a detailed scheme of interpretation of the Listed summerhouse.

105. As the site contains numerous trees and extensive landscaping, conditions requiring the submission of an Arboricultural Method Statement, methods of construction in tree protection areas and soft and hard landscaping details are necessary to ensure protection of those trees to be retained or relocated and to ensure that the development is suitably landscaped so as to maintain the character of the area.

106. I have imposed the suggested condition to restrict the occupancy of the units within the RL and RLP blocks to those above a minimum age limit. This is necessary to ensure the blocks are occupied by the target occupiers.

107. In the interests of neighbouring occupiers' living conditions, I have found it necessary to secure privacy screens on the north facing elements of the terrace within the care home. Conditions requiring the submission of detailed proposals for the management of surface water and silt runoff and a surface water drainage system are necessary to manage drainage and flood risk of the site and surrounding area.

108. A Construction Management Plan, which includes details of the car parking provision for construction workers, should be secured in order to minimise disruption to surrounding highways and neighbouring residents.

109. I have imposed conditions related to noise levels of fixed plant and equipment, and contamination in the interests of the living conditions of existing and

future occupiers. Conditions related to car and cycle parking provision, the closure of existing accesses to motorised vehicles, implementation of the Travel Plan, and requiring the improvements to existing bus stop facilities, cycleways and street lighting are necessary in the interests of highway safety and to encourage sustainable transport. A condition to secure details of refuse storage is necessary to control pollution impacts.

Conclusion

110. For the reasons above, and having regard to all other matters raised, I conclude the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Giles Cannock, Kings Counsel

David Williams, Divisional Planner, The Planning Bureau

Robert Sargent, Director, Stride Treglown Architects

Richard Burton, Director, TOR & Co

Francesca Lewis, McCarthy Stone

Steve Ricard, Porthaven Care Homes

FOR THE LOCAL PLANNING AUTHORITY:

James Brown, Cranbrook New Community Officer, East Devon District Council

Thea Billeteer, Cranbrook New Community Manager, East Devon District Council

INTERESTED PARTIES:

Councillor Chris Lockyear

Councillor Ian Barlow

Councillor Edward Willis-Fleming

Councillor Rachel Perram

Kelvin Dent

Barry Curwen

Michael Temple

Hilary Jones

Stephen Jones

Janet Lambert

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

1. Statement of Kelvin Dent
2. Statement of Michael Temple
3. Copy of S106 agreement dated 12 November 2024

SCHEDULE OF 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.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AC-0003 C: Masterplan Proposed Site Plan March 2024; AC-0002 F Proposed Site Plan March 2024; AC-1170 D: Split level town house Proposed Floor Plans 18.09.23; AC-1200 H: Lower ground Proposed Floor Plans March 2024; AC-1204 G: RL Proposed roof plans March 2024; AC-1201 G: RL ground Proposed Floor Plans March 2024; AC-1202 H: RL first Proposed Floor Plans March 2024; AC-1203 H: RL second Proposed Floor Plans March 2024; AC-1301 H: RLP ground Proposed Floor Plans March 2024; AC-1302 G: RLP first Proposed Floor Plans March 2024; AC-1303 G: RLP second Proposed Floor Plans March 2024; AC-1304 G: RLP third Proposed Floor Plans March 2024; AC-1305 F: RLP Proposed roof plans March 2024; AC-1601 C: existing demolition building B Other Plans 18.09.23; AC_1610 E: building B Proposed Floor Plans 18.09.23; AC-2005 D: split level townhouse Proposed Elevation 18.09.23; AC-2100 G: RL north/east Proposed Elevation March 2024; AC-2101 G: RL south/west Proposed Elevation March 2024; AC-2200 G: RLP north/east Proposed Elevation March 2024; AC-2201 F: RLP south/west Proposed Elevation March 2024; AC-2300 E: house elevations/typical section March 2024; AC-2510 E: building B Proposed Elevation 18.09.23; AC-2530 E: context elevations 1 of 2 Proposed Elevation March 2024; AC-2531 C: context elevations 2 of 2 Proposed Elevation March 2024; AC-3530 E: proposed context Sections March 2024; LA-0002 H: masterplan Landscaping March 2024; LA-1000 H: general arrangement area 1 Landscaping March 2024; LA-1001 H: general arrangement area 2 Landscaping March 2024; LA-1002 H: general arrangement area 3 Landscaping March 2024; LA-9010 C: tree retention/removal Landscaping March 2024; LA-9500 F: boundary treatment area 1 Landscaping March 2024; LA-9501 F: boundary treatment area 2 Landscaping March 2024; LA-9502 F: boundary treatment area 3 Landscaping March 2024; LA-9700 E: hard landscape area 1 Landscaping March 2024; LA-9701 E: hard landscape area 2 Landscaping March 2024; LA-9702 F: hard landscape area 3 Landscaping March 2024; LA-9800 F: soft landscape area 1 Landscaping March 2024; LA-9801 F: soft landscape area 2 Landscaping March 2024; LA-9802 F: soft landscape area 3 Landscaping March 2024; 20-098-115 C: Proposed boundary treatment plan 1 of 2 Landscaping 18.09.23; 20-098-116 C: Proposed boundary treatment plan 2 of 2 Landscaping 18.09.23; LA-9802 F: soft landscape area 3 Landscaping March 2024; LA-9810 C: soft landscape details Landscaping March 2024; LA-9820 D: soft landscape schedule Landscaping March 2024; LA-9900 D:

typical landscape details 1 of 2 Landscaping March 2024; LA-9901 C: typical landscape details 2 of 2 Landscaping March 2024; LA-9903 A: typical threshold details Additional Information March 2024; 20-098-120 H: lower ground Proposed Floor Plans 15.03.23; 20-098-121 H: ground Proposed Floor Plans 15.03.23; 20-098-122 H: first Proposed Floor Plans 15.03.23; 20-098-123 H: second Proposed Floor Plans 15.03.23; 20-098-152 C: sheet 3 of 5 Proposed Elevation 15.03.23; 20-098-124 D Proposed roof plans 15.03.23; 20-098-150 C: sheet 1 of 5 Proposed Elevation 15.03.23; 20-098-151 C: sheet 2 of 5 Proposed Elevation 15.03.23; 20-098-153 C: sheet 4 of 5 Proposed Elevation 15.03.23; 20-098-154 C: sheet 5 of 5 Proposed Elevation 15.03.23; 20-098-165 C: site sheet 1 Sections 15.03.23; 20-098-166 C: site sheet 2 Sections 15.03.23; 20-098-167 B: with 3 Broadway Sections 15.03.23; AC-0000 A Location Plan 15.03.23; AC-0001 B Existing Site Plan 15.03.23; AC-0023 B: demolition site Other Plans 15.03.23; AC-1400 D: HOUSE Proposed Floor Plans 15.03.23; AC-1600 B: BUILDING B Existing Floor Plans 15.03.23; AC-1620: GROUND (BUILDING) Existing Floor Plans 15.03.23; AC-1621: FIRST (BUILDING) Existing Floor Plans 15.03.23; AC-1622: SECOND (BUILDING) Existing Floor Plans 15.03.23; AC-1700 C: BAT BUILDING Proposed Floor Plans 15.03.23; AC-2500 B: BUILDING B Existing Elevation 15.03.23; AC-2520 : BUILDING Existing Elevation 15.03.23; AC-1300 H: RLP Lower Ground floor plan Proposed Floor Plans March 2024; AC-1301 H : RLP Ground floor Proposed Floor Plans March 2024.

- 3) No development (including any demolition and site preparation works) shall take place until a phasing plan has been submitted to and agreed in writing by the Local Planning Authority. The phasing plan shall detail site set up requirements, and a programme for demolition and construction and landscaping works as necessary. It shall demonstrate a full regard for the requirements of the other conditions attached to this planning permission and importantly the ecological constraints on the site. The plan shall be adhered to for the duration of the development unless revisions are submitted to and agreed in writing by the Local Planning Authority.
- 4) Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of construction machinery) a detailed Arboricultural Method Statement (AMS) containing a Tree Protection Scheme and Tree Work Specification based on the submitted reports under reference 1838-KC-XX YTree Protection Plan 01 Rev C and 1838-KC-XXY Tree Survey and Impact Assessment Rev C shall be submitted to and approved in writing by the Local Planning Authority.

No development or other operations shall take place except in complete accordance with the agreed AMS. The AMS shall include full details of the following:

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

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

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

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

On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Local Planning Authority for approval and final discharge of the condition. In any event, the following restrictions shall be strictly observed:

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

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

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

- 5) No development (including works associated with the demolition and clearance of the site) shall take place until a Construction and Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the Local Planning Authority.

The CECoMP shall include the following:

a) Risk assessment of potentially damaging construction activities.

b) Identification of "biodiversity protection zones".

c) Practical measures (both physical measures and sensitive working practices), including a detailed construction phase lighting strategy, to avoid or reduce impacts during construction (may be provided as a set of method statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication, including reporting compliance of actions to the Local Planning Authority

g) The role and responsibilities on site of an ecological clerk of works (ECoW), including any licence requirements.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CECoMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

6) No development (including works associated with the demolition and clearance of the site) shall take place until a Landscape and Ecology Management Plan (LEMP) based on the submitted Ecological Appraisal (Devon Wildlife Consultants, 2023) has been submitted to and approved in writing by the Local Planning Authority which should include the following details:

a) Description and evaluation of landscape and ecological features to be created/ managed and any site constraints that might influence management. This shall include the location and design of biodiversity features including bird boxes (at a ratio of 1 per unit), bat boxes, and other features which shall clearly be shown on submitted plans.

b) Ecological trends and constraints on site that might influence management.

c) Aims and objectives of management.

d) Appropriate management options for achieving aims and objectives.

e) Prescriptions for management actions.

f) Detailed maintenance works schedules covering regular cyclical work and less regular/ occasional works (including an annual work plan capable of being rolled forward over a minimum 30-year period) in relation to:

o Existing trees, woodland and hedgerows.

o New trees, woodland areas, hedges/ hedgebanks and scrub planting areas.

o Grass and wildflower areas.

o Biodiversity features - hibernaculae, bat/ bird boxes etc.

o Boundary structures, drainage swales, water bodies and other infrastructure/ facilities.

g) Details of the body or organisation responsible for implementation of the plan, including the extent, ownership and responsibilities for management and maintenance.

h) Ongoing inspection, monitoring, and remedial measures of the site together with maintenance practices.

i) Arrangements for periodic review of the plan.

The management, maintenance and monitoring shall be carried out in accordance with the approved plan. The works shall be executed in accordance with the approved drawings and details and shall be completed in accordance with a timetable to be set out in the LEMP. Any new planting

or grass areas which fail to make satisfactory growth or dies within five years following completion of the development shall be replaced in the next available planting season with plants of similar size and species to the satisfaction of the Local Planning Authority.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 7) No development shall take place on any part of the site (including works associated with the demolition and clearance of the site) until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closures;
 - (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 6.00pm Mondays to Fridays inc.; 9.00am and 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Local 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;
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - (k) details of wheel washing facilities and obligations;
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes; and

(m) Details of the amount and location of on-site construction worker parking.

The approved CMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 8) No development (including works associated with the demolition and clearance of the site) shall take place until detailed proposals for the management of surface water and silt runoff from the site during the demolition and construction phases of the development has been submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with the approved details.
- 9) No development (other than in respect of demolition and site clearance works) shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved McCS Sidmouth Flood Risk Assessment & Drainage Strategy Report (Report Ref. 2042-FRA&DS-01, Rev. v4, dated September 2023) and Proposed Drainage Strategy Knowle Drive, Sidmouth (Report Ref. RN/10980, Rev. v1.1, dated 17th February 2023). Should the principles of this drainage report not be feasible an alternative method of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority, in consultation with South West Water and the Lead Local Flood Authority.

(b) Proposals for the adoption and maintenance of any permanent surface water drainage system.

(c) A plan indicating how exceedance flows will be safely managed at the site.

(d) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals, the scope of which shall first be agreed in writing with the Local Planning Authority in consultation with the Lead Local Flood Authority. The assessment should identify and commit to, reasonable repair and/or improvement works to secure the proper function of the surface water drainage receptor which is reasonable and apportioned to the proposed development to an agreed timetable.

Development shall take place in accordance with the approved details. No on-site development shall commence until all off-site drainage works approved pursuant to this planning condition have been implemented in full.

All permanent on-site drainage shall be provided prior to occupation or use of the development to which they relate. Construction phase drainage shall be provided in accordance with the approved timetable.

- 10) No development except demolition and works to the main site access shall take place until a site levels/external works plan at 1:250 scale or greater indicating existing and proposed ground levels, finished floor levels and showing the extent of earthworks and any retaining walls, tanking or under-build, including heights and materials has been submitted to and approved in writing by the Local Planning Authority.

This shall be accompanied by at least 6 sections through the site at scale of 1:100 or greater clearly showing existing and proposed ground level profiles across the site and relationship to surroundings. Development shall take place in accordance with the approved details.

- 11) Prior to commencement of any development in the relevant phase (excluding site clearance and demolition), full details of the method of construction of hard surfaces in the tree protection areas (identified in the Tree Protection Scheme) of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. The method shall adhere to the principles embodied in BS 5837:2012 and AAIS Arboricultural Practice Note 1 (1996). The development shall be carried out strictly in accordance with the approved details.
- 12) No development above damp-proof course level shall commence in any particular phase as identified by the agreed phasing plan under condition 3 until a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 13) No development above damp-proof course level shall commence in any particular phase as identified by the agreed phasing plan under Condition 3 until large scale detailed drawings (typically 1:20) of the following components have been submitted to and approved in writing by the Local Planning Authority:
 - Window and external door details including typical sections through glazing bars, mullions and transoms
 - Eaves soffit and fascia details
 - Balcony detailing
 - Screens
 - Canopies
 - Junctions between external facing materialsThe relevant works shall be carried out in accordance with the approved details.
- 14) No development above damp-proof course level shall be commenced in any particular phase as established by the agreed phasing plan under Condition 3 until details of covered cycle parking/storage relevant for that phase has been submitted to and agreed in writing by the Local Planning Authority. The cycle parking storage provision shall be delivered and made available for use prior to the first occupation in the respective phase of development. The cycle parking storage provision shall thereafter be retained for that purpose.
- 15) No development above damp-proof course level shall commence for each agreed phase until the following information has been submitted to and approved in writing by the Local Planning Authority:

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

b) A full set of soft landscape details including:

c) Planting plan(s) showing locations, species and number of new tree, shrub planting, type and extent of new amenity/species rich grass areas, existing vegetation to be retained and removed.

d) Plant schedule indicating the species, form, size, numbers and density of proposed planting.

e) Soft landscape specification covering soil quality, depth, cultivation and amelioration; planting, sowing and turfing; mulching and means of plant support and protection during establishment period together with a 5 year maintenance schedule.

f) Tree pit and tree staking/guying details.

The approved landscaping outlined within a-f shall be implemented in the first planting season following the occupation of the first dwelling within each phase.

16) Prior to the occupation of any part of the development the proposed improvements to:

- existing bus stop facilities in the vicinity of the site access to Station Road,
- cycleways, footways, footpaths, verges, and junctions
- street lighting
- sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments
- visibility splays and accesses

shall be constructed and laid out in accordance with the approved drawings, unless otherwise agreed by the Local Planning Authority.

17) Prior to the occupation of any part of the development the following shall apply:

i. the existing northwestern access from Knowle Drive to the site shall have been closed to motorised vehicles (with the exception of mobility scooters or electrically assisted bicycles) in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

ii. the existing southern access from Knowle Drive to the site shall have been closed to motorised vehicles (with the exception of mobility scooters, electrically assisted bicycles, refuse collection vehicles and emergency vehicles), in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with these agreed details and be retained as such for the lifetime of the development.

18) Prior to the first occupation of the relevant phase of development hereby approved, details of all garden furniture located outside of the areas that would function as private gardens on plan reference, AC-0002-F-Proposed Site Plan, but is otherwise identified within the site boundary and relevant to that phase, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the relevant phase of development the furniture shall be provided in accordance with the agreed details and shall be maintained for the lifetime of the development unless agreement to any variation is first obtained from the Local Planning Authority in writing.

19) Prior to the first occupation of the retirement living plus block a detailed scheme for the interpretation of the Grade II Listed summerhouse shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details and design of any structure used for interpretation purposes, the design appearance and layout of information, and siting/mounting of any approved structures, and a detailed timetable for the installation of the approved scheme of interpretation.

The scheme of interpretation shall be provided in full in accordance with the approved details prior to the occupation of the retirement living plus block and shall be retained for the lifetime of the development.

20) Prior to the occupation of the relevant phase of development (and in any event prior to the first installation of the relevant component of the apparatus), the final position, size and nature of all externally mounted vents, flues and meter boxes shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details.

21) Prior to the occupation of any of the units which have an outlook from the north elevation of 'the Dell', (C2 use class residential), details of the proposed privacy screens shall be submitted to and agreed in writing by the Local Planning Authority. The privacy screens shall be fully installed in accordance with the agreed details prior to the occupation of any units which have an outlook from the north elevation of the Dell. Thereafter the screens shall be retained in position in accordance with the agreed details for the lifetime of the development.

22) Prior to the occupation of any accommodation in each phase, a Refuse Storage Area Management Strategy for that respective phase shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall address how risks of odour and pest attack shall be addressed and how the storage areas will be kept clean, tidy and secure. Prior to the occupation of each respective phase of development, the approved strategy shall be implemented and retained for the lifetime of the development.

23) Prior to the installation of any external lighting for each respective phase (and no later than prior to the first occupation for the relevant phase) a detailed Lighting Impact Assessment (LIA) including lux contours, based on the detailed site design and most recent guidelines (currently GN08/23 and DCC 2022), shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of each respective phase of development all external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be

maintained thereafter in accordance with the design. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

- 24) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use, shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 25) The proposal shall be carried out in accordance with landscape landscape plans listed within condition 2. The landscaping scheme, and any subsequently agreed landscaping details under a discharge of condition shall be carried out in the first planting season after commencement of the development in the respective phase unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
- 26) Prior to the occupation of each individual dwelling at least 1 parking space and its associated vehicle access route (or 50% of the parking for the care home phase) shall have been properly formed, surfaced and be accessible for use by the respective occupiers.
- 27) The Travel Plan submitted 7th Feb 2024 with reference 20142-FTP-05 and prepared by Jubb shall be implemented prior to the first occupation of the development. It shall apply to and be implemented for each and every subsequent occupation of the development and will thereafter be maintained and developed to the satisfaction of the Local Planning Authority.
- 28) The specific noise level of any fixed plant or equipment installed and operated on the site of the 'the Dell', (C2 use class), must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.
- 29) Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies. Before any part of the development is occupied, written confirmation should be provided that all works have been completed in accordance with the approved method and procedure for addressing the contamination.

- 30) No demolition works of confirmed bat roosts shall commence on site until the Local Planning Authority has been provided with a copy of the bat mitigation licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead.
- 31) The works shall be carried out in strict accordance with the submitted Ecological Impact Assessment, Ecological Impact Assessment - Addendum, Bat Ecological Impact Assessment - Technical Note to Assess Design Changes (EPR , 2023) and Ecological Appraisal (Devon Wildlife Consultants, 2023), unless modified by Natural England bat licence. Prior to occupation of the development a written record shall be submitted to the Local Planning Authority to include photographs of the installed ecological mitigation and enhancement measures as detailed within the reports and details regarding compliance with any ecological method statements (other than long terms monitoring details) as detailed within the submitted LEMP and CEcoMP.
- 32) Each residential unit of the C2 use hereby permitted (excluding the care home), and all of the C3 residential units except for the block of three Town Houses, labelled 'Townhouses' and pair of semi-detached properties, labelled 'Houses' on plan AC-0002-F- Proposed Site Plan, shall be occupied only by:
- (i) A person aged 60 years or over;
 - (ii) A person aged 55 years or older living as part of a single household with the above person in (i); or
 - (iii) A person aged 55 years or older who were living as part of a single household with the person identified in (i) who has since died.

END OF SCHEDULE