

**OTTERY ST MARY TOWN COUNCIL**

Council Offices, The Old Convent, 8 Broad Street,  
Ottery St Mary. Devon EX11 1BZ  
Tel: 01404 812252  
E-mail: [clerk@otterystmary-tc.gov.uk](mailto:clerk@otterystmary-tc.gov.uk)  
Web Site: [www.otterystmary-tc.gov.uk](http://www.otterystmary-tc.gov.uk)



05 June 2024

Dear Councillors

I hereby give you notice that the **Planning Meeting** of **OTTERY ST MARY TOWN COUNCIL** will be held at **19:00 on Monday, December 16, 2024**, at **Ottery St. Mary Town Council (8 Broad Street, Ottery St. Mary, Devon, EX11 1BZ)**.

All members are hereby summoned to consider the matters detailed on the agenda below.

Yours faithfully

*Ottery St Mary Town Council Admin*

**INFORMATION FOR MEMBERS OF THE PUBLIC/PRESS:**

The law requires that public access is possible and not restricted, unless in the case of an agreed confidential session.

1. If you wish to comment on an item on this agenda (but don't wish to speak at the meeting) please submit this in writing by **12 noon Monday, December 16, 2024**. This will be read out under public participation for members to consider.
2. For members of the public/press that wish to speak at the meeting, under public participation, please raise your hand and wait for the Mayor/Chair to prompt you.
3. For those who have no visual access to the meeting, Members will state their name before speaking and voting.
4. For those who are unable to hear, the agendas and the minutes of the meeting will be available on the Council's website.

Note: Under the Openness of Local Government Bodies Regulations 2014, any members of the public are allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Mayor/Chair has the power to control public recording and/or reporting so it does not disrupt the meeting

Mobile Phones, Pagers and Similar Devices – All persons attending this meeting are required to turn off Mobile Phones, Pagers and Similar Devices. The Mayor/Chair may approve an exception to this request in special circumstances

# Table of contents

16/12/2024 19:00 - 21:00

---

P/24/12/1 - Apologies for Absence	4
.....	
P/24/12/1 - Declarations and Disclosable Pecuniary Interests	4
.....	
P/24/12/1 - Admission to Meetings	4
.....	
P/24/12/1 - Reports, Correspondence and Items referred to the Committee	4
.....	
<b>Attachments</b>	
24.0605.ful	5
TPO 24 0022	11
22.1973.mout	12
23.0102.ful	20
ufm26	26
P/24/12/1 - Minutes	4
.....	
P/24/12/1 - Planning Decisions Received	4
.....	
P/24/12/1 - Public Participation	4
.....	
P/24/12/1 - To consider and determine observations on the following Planning Applications:	27
.....	
P/24/12/1 - To receive Councillors' questions relating to Planning Matters	27
.....	
P/24/12/1 - Date of the next meeting: TBC	27

---

## AGENDA

### **P/24/12/1 Apologies for Absence**

To receive apologies for absence

### **P/24/12/1 Declarations and Disclosable Pecuniary Interests**

To receive Declarations of interest for items on the Agenda and receipt of requests for new Disclosable Pecuniary Interests (DPIs) dispensations for items on the Agenda

### **P/24/12/1 Admission to Meetings**

In consideration of the Public Bodies (Admission to Meetings) Act 1960 (publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted): to agree any items to be dealt with after the public and press have been excluded

### **P/24/12/1 Reports, Correspondence and Items referred to the Committee**

- a) Appeal Ref: **APP/U1105/W/24/3346991** Clapperentale Farm, Lane Past Escot Park, Escot Park, Ottery St Mary, Devon EX11 1LU • The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) - **Allowed**
- b) **24/0022/TPO** Land at the Vicars House, The College, Ottery St Mary - **Tree Preservation Order**
- c) Appeal Ref: **APP/U1105/W/24/3336475** Land East of Sidmouth Road, Ottery St Mary EX11 1PW - **Dismissed**
- d) Appeal Ref: **APP/U1105/W/23/3334808** Land at the rear of 9 Tip Hill, Ottery St Mary, Devon EX11 1BE - **Dismissed**
- e) **24/0021/TPO** Land at 40, North Street, Ottery St Mary - **Tree Preservation Order**

[24.0605.ful.pdf](#)

[TPO 24 0022.pdf](#)

[22.1973.mout.pdf](#)

[23.0102.ful.pdf](#)

[ufm26.pdf](#)

### **P/24/12/1 Minutes**

To receive the Minutes of the Meeting of the Town Council of 19th November 2024 and to approve the signing of the Minutes by the Chair as a correct record

### **P/24/12/1 Planning Decisions Received**

<a href="#">24/1278/FUL</a>	<a href="#">Land Adjacent Upper Spilsby, Exeter Road, Ottery St Mary</a>	REFUSED
<a href="#">24/1817/FUL</a>	1 Broad Street Ottery St Mary Devon EX11 1BR	REFUSED
<a href="#">24/1799/FUL</a>	<a href="#">3 North Street Ottery St Mary EX11 1DR</a>	APPROVED WITH CONDITIONS
<a href="#">24/1918/FUL</a>	<a href="#">Oaklands Gerway Lane Ottery St Mary EX11 1PW</a>	APPROVED WITH CONDITIONS
<a href="#">24/2077/LBC</a>	<a href="#">Halls Farm Higher Metcombe Ottery St Mary EX11 1SS</a>	APPROVED WITH CONDITIONS
<a href="#">24/2080/CPL</a>	<a href="#">15 Franklea Close Ottery St Mary EX11 1BQ</a>	CPL APPROVED PART 1

### **P/24/12/1 Public Participation**



---

# Appeal Decision

Hearing held on 29 October 2024

Site visit made on 29 October 2024

**by C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 22 November 2024**

---

**Appeal Ref: APP/U1105/W/24/3346991**

**Clapperentale Farm, Lane Past Escot Park, Escot Park, Ottery St Mary, Devon EX11 1LU**

- 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 Nigel Morgan against the decision of East Devon District Council.
  - The application Ref is 24/0605/FUL.
  - The development proposed is the siting of rural workers dwelling (static caravan) in support of rural business (retrospective).
- 

## Decision

1. The appeal is allowed and planning permission is granted for the siting of rural workers dwelling (static caravan) in support of rural business (retrospective) at Clapperentale Farm, Lane Past Escot Park, Escot Park, Ottery St Mary, Devon EX11 1LU in accordance with the terms of the application, Ref 24/0605/FUL, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with drawing no's: 2223.046.Morgan.01SV (Location and Block Plan); 2162844 (Block Plan); 2236989 (Elevations); 2231916 (End Elevation); 2231915 (Floor Plan); Front Elevation (no reference number); 2236991 (Side Elevations); 2183899 (Site Flood Map); 2183898 (Site Plan with Trees Marked); and 2183900 (Site Plan).
  - 2) The occupation of the caravan hereby permitted shall be carried on only by Mr Nigel Morgan and any resident dependants only. When the caravan ceases to be occupied by Mr Nigel Morgan, the use hereby permitted shall cease and the caravan be removed.

## Preliminary Matters

2. I observed on my site visit that the development has been completed in accordance with the approved plans. I have therefore determined the appeal on the basis that retrospective permission is sought for the development which has already been implemented.
3. During the Hearing, the Council confirmed that Policy H4 of the East Devon Local Plan, adopted January 2016 (the LP) had been omitted from the decision notice in error. As part of their appeal statement, the appellant has outlined the importance of that policy to this case. As such, I am satisfied that the omission has not resulted in any form of procedural unfairness, and I have therefore assessed the development against the requirements of that policy.

4. The Statement of Common Ground outlines that there is no agreement between the parties with regards to the length of time that the appellant has resided in the static caravan. During the Hearing, the appellant informed me that they had lived in the caravan for approximately fourteen years, but that the caravan had been situated on different parts of the estate during that time. As such, the appellant has not sought to argue that planning permission is not required, and I have therefore determined the appeal on that basis.

### **Main Issue**

5. The parties agreed at the Hearing that the site is within the open countryside, outside of any designated settlement boundary, and that residential development in that location would be contrary to the Council's adopted spatial strategy. As a result, that aspect of the Council's reason for refusal is not a matter in dispute between the parties. Based on the evidence before me, I have no reason to disagree. Accordingly, I consider that the main issues are: (i) whether there is an essential need for a rural worker to live permanently at the appeal site in the countryside; and (ii) notwithstanding the Council's spatial strategy, whether the site is in a sustainable location with regards to access to services and facilities.

### **Reasons**

#### *Essential Need*

6. Paragraph 84(a) of the National Planning Policy Framework (the Framework) sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain criteria apply, including whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. At the Hearing I was informed that the appellant is self-employed and that he undertakes various jobs on a full-time basis on behalf of several businesses that operate from the estate, as well as doing work related to the estate itself. The appellant's appeal statement provides a list of these jobs. They can be summarised as being work related to grounds maintenance and security, as well as responsibilities associated with being an instructor for Devon Country Pursuits. According to the appellant these tasks often involve working at different times of day, including during the evenings.
8. During the Hearing I heard from representatives of some of the businesses that operate from the estate. From what I was told, it is abundantly clear that the work that the appellant undertakes is considered to be of considerable importance and that he is a valued colleague. However, there is no substantive evidence before me that leads me to conclude that any of these job roles result in an essential need for the appellant to live on site at all times.
9. At the Hearing it was put to me that, if the appellant did not live on the site, there would likely be security implications for those businesses. Indeed, it was suggested that, while alternative security arrangements have been utilised, including CCTV, these measures are not as effective as having someone on site who is able to respond to any such issues instantaneously. However, while that might be the case, the pre-amble to LP Policy H4 clearly states that

concerns relating to security will not, on their own, be sufficient to justify a new dwelling.

10. It was also suggested at the Hearing that, if the appellant were to live off-site, then the amount of travel that they would have to undertake would be significantly greater as a result of having to commute to the estate, potentially several times a day. The sustainability of any development proposals is of course an important consideration. However, such matters do not constitute an essential need.
11. LP Policy H4 also contains various other stipulations. Firstly, parts 2 and 3 of the policy require assurance that the businesses in question are financially viable. While I was informed at the Hearing that this is the case, I have no substantive evidence before me to confirm this. Likewise, I have no evidence regarding man hours worked which would enable me to conclude that the appellant has the equivalent of a full-time role (part 4 of the policy), or evidence that outlines the appellant's financial situation and any alternative accommodation options (part 5).
12. As a result, I have no alternative but to conclude that there is not a proven essential need for the appellant to live permanently at the site. As such, the development conflicts with LP Policy H4 which seeks to prevent the provision of isolated dwellings in the countryside unless there is an essential need for a rural worker. There is also conflict with paragraph 84 of the Framework which has similar aims.

#### *Access to Services and Facilities*

13. Escot Park is a large country estate in the countryside, some distance from the nearest settlements. Access to the estate is achieved by travelling along unlit rural roads which are unlikely to be attractive for walking and cycling, particularly within the hours of darkness. There is also no suggestion from the appellant that there are bus stops near to the estate. As such, it is highly likely that living on the estate results in a reliance on the private car.
14. The appellant has suggested that living off-site would result in a greater number of trips by private car than is currently the case. This would be due to a need to travel to Escot Park for work, potentially several times a day. There is little substantive evidence before me that could lead me to conclude whether or not that would be the case. However, it is a fact that the appeal site is quite isolated with no realistic access to modes of public transport. In order to access services and facilities such as supermarkets, shops and public houses, the appellant would need to travel by private car to the village of Feniton, or slightly further afield to the towns of Honiton or Ottery St. Mary.
15. On balance I find it more persuasive to conclude that the site is in an unsustainable location in this regard, albeit that the harm would be mitigated to a significant extent by the fact that travel to work is not required. Indeed, given that this appeal only involves a single dwelling, I find that the harm would be very limited. Nevertheless, there is still conflict with LP Strategy 5B and Policy TC2, as well as Policy NP9 of the Ottery St. Mary and West Hill Neighbourhood Plan, 2017 to 2031. Taken together, the relevant aspects of these policies seek to direct residential development to sustainable locations that are accessible by public modes of transport.

## Planning Balance

16. The appellant has suggested that permitted development rights could be utilised to make the siting of the static caravan acceptable in planning terms, and that this represents a viable alternative to obtaining planning permission. In support of their case, my attention has been drawn to an appeal decision where the Inspector did reach this conclusion<sup>1</sup> (the Highbridge appeal).
17. However, it seems to me that the two appeals are not directly comparable. In particular, the site in the Highbridge appeal was not particularly large and the Inspector was able to conclude that, while the static caravan would be located outside of the curtilage of the main dwelling, the land could be considered to be a single planning unit. In contrast, Escot Park is a large estate that contains a range of uses across the land. As such, it seems highly unlikely to me that the estate could be considered to be a single planning unit and I therefore have significant doubts that this fallback position would be successful if pursued.
18. During the Hearing, the appellant stated that they would be made homeless if the appeal were to fail. I have already set out that there is no substantive evidence with regards to the appellant's personal finances and alternative accommodation options. However, given that they are currently living in a static caravan, and it seems likely that they have done so for quite some time, I am of the view that there is a reasonable prospect that the appellant would effectively be rendered homeless if I were to dismiss this appeal, particularly as I do not believe that there is a realistic fallback option. I note that the Council's officer report did consider the appellant's personal circumstances in relation to The Human Rights Act 1998. While I acknowledge that an enforcement notice was served on the static caravan in June 2023, I do not find that the amount of time that has elapsed has necessarily afforded the appellant the chance to arrange alternative accommodation, particularly if they do not have the necessary finances to achieve this. In my view, the potential prospect of homelessness is a material consideration to which I must afford very significant weight.
19. The development does not accord with the Council's spatial strategy. Furthermore, as part of my reasoning, I have found that there would also be conflict with policies that seek to promote the use of sustainable forms of transport. During the Hearing, the Council confirmed that they do not consider that the siting of the static caravan has resulted in harm in any other regard. I have no reason to disagree. In my view, the very significant weight that I afford to the appellant's personal circumstances clearly outweighs the identified harm.

## Other Matters

20. The site is within the zone of influence of the Exe Estuary Special Protection Area and the East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area (the designated sites). The Exe Estuary supports an internationally important assemblage of birds, including overwintering populations of Avocet and Slavonian Grebe, while the Pebblebed Heaths make up the largest block of lowland heath in Devon.

---

<sup>1</sup> Appeal ref: APP/V3310/X/17/3180697



21. The designated sites are an important recreational and economic resource. They are well frequented by the public and it is very possible that occupants of the static caravan would visit the sites. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the protected sites.
22. The evidence before me is clear that the proposal, particularly when combined with other development in the area, would have a likely significant effect on the protected sites due to an increased disturbance through recreational activity. The parties have agreed a financial sum in accordance with the Council's South-East Devon European Sites Mitigation Strategy which can be put towards infrastructure or non-infrastructure projects. I have received the signed Section 111 form, and at the Hearing, I was advised by the Council that the payment could be put towards projects such as maintaining footpaths and signage. I was also informed that the strategy had been prepared with the agreement of Natural England. As such, it is not necessary for me to consult them separately as part of this appeal.
23. Based on the evidence before me, I am satisfied that the contribution would sufficiently mitigate the level of harm likely to be caused by the development and would be pursuant to the Council's adopted strategy. I therefore find that the proposal would not result in an adverse effect on the integrity of the designated sites.

### **Conditions**

24. Given that the development is retrospective there is no need to impose the standard time condition. However, I have imposed a condition to identify the relevant plans in the interest of certainty. A further condition limits the use of the static caravan specifically to the appellant. This is necessary as I have allowed the appeal on the basis of their personal circumstances despite conflict with the development plan.

### **Conclusion**

25. I find that the material considerations described above, in this instance, clearly outweigh the conflict with the development plan and the very limited harm that I have identified, and indicate that permission should be granted. For this reason, the appeal is allowed.

*C Butcher*

INSPECTOR

## **Appearances**

### **For the appellant:**

Mr Morgan: Appellant

Mr Ferreday: Appellant's agent

Mrs Knight: Appellant's agent

Mr Mingo: Local farmer

Mr Kennaway: Escot Estate

Mr Farrow: DMF Music

Mr Best: Devon Country Pursuits

### **For the Local Planning Authority**

Mr Barrett: East Devon District Council

Mr Stephenson: East Devon District Council

# Memo

To: Clerk To Ottery St Mary Town Council

From: Arboricultural Team

Your Ref:

Our Ref: 24/0022/TPO

Date: 27 November 2024



**SUBJECT:**

**TREE PRESERVATION ORDER**

**PROPOSAL: Land at the Vicars House, The College, Ottery St Mary**

**TPO NO: 24/0022/TPO**

---

I would inform you that the above Tree Preservation Order has been made in respect of land in your area.

Should you require any further information, please do not hesitate to contact me.

Arboricultural Team  
Countryside Services



---

# Appeal Decision

Site visit made on 28 October 2024

**by A J Sutton BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

---

**Appeal Ref: APP/U1105/W/24/3336475**

**Land East of Sidmouth Road, Ottery St Mary EX11 1PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by ALD Developments against the decision of East Devon District Council.
  - The application Ref is 22/1973/MOUT.
  - The development proposed is described as 'Outline permission for a residential development of up to 63 dwellings and associated infrastructure.'
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The planning application was submitted in outline and the application form makes it clear that all matters, except access, are reserved at this stage. The appeal proposal is considered accordingly, and the proposed Illustrative sketch Site Layout is treated as indicative only.
3. The Council, through this appeal process, has indicated that it no longer contests reasons for refusal 3 and 4 on its decision notice. These relate to protected habitats and affordable housing, and I will deal with these matters in due course.
4. Attention is drawn to an emerging plan. This has not yet progressed to the submission stage, and as such there are likely significant matters that are not yet resolved. Also, there is a high degree of uncertainty that this draft plan would be submitted in its current form. Given these factors, the weight that policies of this emerging plan attract is very limited in this case.

## Main Issues

5. The main issues are:
  - The effect of the proposal on the character and appearance of the area, and
  - Whether the proposal would be acceptable in respect of the loss of agricultural land.

## Reasons

### *Character and Appearance*

6. The appeal site is a collection of fields which at the time of the site visit comprised grazing land. The fields are bounded by mature hedgerows and some trees. Although it is close to the settlement of Ottery St Mary, development is sparse and sporadic in

the immediate setting of the site. The land rises from Sidmouth Road, with a sense of openness increasing on the higher ground of the appeal site.

7. Properties on the eastern side of Sidmouth Road thin out when leaving Ottery St Mary. Beyond this fringe of the settlement and leading to the appeal site, pavements come to an end and the road, lined with a hedgebank, narrows, marking a clear transition from the suburban edge of the town into the surrounding countryside. Comprising undulating fields and with sparse development at its boundary, the rolling farmland of the appeal site appears to contribute positively to the character of the countryside setting of the town.
8. Dwellings at this edge of Otter St Mary are mixed in style but appear largely 20<sup>th</sup> Century, with a distinct suburban appearance. Near the appeal site this includes dwellings perched on Longdogs Lane and the relatively new development, west of Sidmouth Road, which includes pavements and streetlamps, opposite Gerway Lane. Those properties are separated from the appeal site either by fields or the road. Given this degree of separation along with the starkly contrasting undeveloped quality of the appeal site, it was observed that those existing suburban developments have limited visual influence over the character of the appeal site and its immediate context.
9. The proposal would result in a new access onto Sidmouth Road. This would require the removal of a significant section of the existing hedge on this stretch of the road. Work to the carriageway near this new access would be necessary to address highways issues, and this would include the creation of a pavement and alterations to the priority of vehicles using this part of Sidmouth Road. A bollard and additional road signage would also be part of these works. Even with vegetation and trees retained near the new access, these substantial changes would introduce features that would considerably alter the existing relatively simple rural road.
10. The submitted site layout is indicative. However, with up to sixty three dwellings proposed, much of the existing fields would be covered by built forms. While acknowledging that layout is a reserved matter, it is reasonable to assume that this proposed quantum of dwellings would need significant internal roads, parking spaces and enclosed private gardens. With these features, along with several dwellings, the development would have a distinct suburban appearance.
11. Indeed, the quantum of development would need to be significantly reduced for this not to be the case. This substantial visual change would be visible from the new access even if some hedging was retained along the road. The concentration of built form, roads and other residential features would appear considerably at odds with the sparse development that currently characterises this rural area. Designing the dwellings to reflect existing properties in the wider area would not address the incongruous concentration of development at the site. Nor would it resolve the out of keeping suburban qualities outlined above.
12. The evidence suggests that the lower land would need to be set aside for drainage and to address flood risk. However, the suburban changes outlined above would still likely affect around three quarters of the site given the magnitude of the development proposed in this case. With this coverage of development, the existing environmental qualities and prevailing rural character of this site would be largely lost.
13. Landscaping buffers are proposed, which could be secured by condition. However, while a hedgebank on the eastern boundary may have some effect in filtering views of the development, landscaping at the north boundary would not provide effective

screening given the topography of the land at this aspect. Moreover, as already stated landscaping would not adequately minimise the extensive visual change that would occur at the site access and along the road.

14. The appellant's Landscape and Visual Impact Assessment states that this development would, similar to the new development on the western side of the road, be seen as an extension to Ottery St Mary. However, the Gerway Close development is near to Claremont Field, with only a slither of green space dividing new and previously existing properties at the edge of the settlement.
15. In this case, however, the appeal site is surrounded by scarce development such that the existing substantive edge of the town, north of the site, appears to be Longdogs Lane and St Marys Park. This proposed development would be separated from that existing edge of town development by fields. Therefore, unlike Gerway Close, when viewed locally, this scheme would appear oddly detached development, substantially encroaching into the countryside, as opposed to forming part of the town.
16. The appeal site is located approximately one mile from the East Devon Area of Outstanding Natural Beauty (AONB). The boundary of the AONB roughly aligns with the wooded ridge of higher land to the east and south of the appeal site. From this ridge, the town is seen in distant views from this protected landscape. While the visual harm to the character of the appeal site would be clearly discernible locally, given this distance, the changes at the site, from the edge of the AONB, would be seen against existing development. As a result, the special qualities that contribute to the landscape and scenic beauty of this part of the AONB would be conserved and its setting would not be significantly harmed by this development.
17. Attention is drawn to a recent permission to improve the site access along Sidmouth Road. While this is near the appeal site, that access relates to a farm and therefore unlike this residential development is rural in character. My findings are not altered accordingly.
18. In conclusion on this matter, the proposal would have a harmful effect on the character and appearance of the area. While this visual harm would be localised to the south of the town, for the reasons outlined, this harm would be substantial in this locale. In this regard the proposal would conflict with Strategy 7, Strategy 46 and Policy D1 of the East Devon Local Plan 2013-2031 (Local Plan) and Policy NP1 of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill (Neighbourhood Plan). These Policies, in respect of development in the countryside, collectively, amongst other matters, seek to maintain the rural character of the area. Also, they require that development will need to be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of the natural landscape character of East Devon.

#### *Agricultural Land*

19. Policy EN13 of the Local Plan states that the best and most versatile (BMV) agricultural land (Grades 1,2 and 3a) will be protected from development. A Land Classification Report has been submitted with this proposal and takes account of Ministry of Agriculture, Fisheries and Food Revised guidelines and criteria for grading the quality of agricultural land 1988 (ALC Guidelines). Following the inspection of the land and carrying out soil samples over the three fields, the Land Classification Report indicates the land is Grade 2. However, the Report goes on to state that the fields are small and 'bigger' farm machinery would damage hedges when accessing the land

from Gerway Lane. In turn, it is stated that the site is restricted to grass capable of being grown on Grade 3b.

20. It is appreciated that ALC is based on more than soil samples. In respect of other factors, the Land Classification Report highlights the site gradient is level or gently sloping and is reasonably sheltered. While it is indicated that there is a limited water supply there is a water trough in one of the fields.
21. Also, although the author of the Report concludes that Gerway Lane is too narrow for large machinery this is contradicted by a farmer of the neighbouring field. This may be anecdotal but nonetheless the farmer's comments are referenced in the Report. This appears local knowledge from an individual that has practical experience of using Gerway Lane and on this basis, it seems reasonable that this should attract some weight. Moreover, no convincing evidence has been advanced to dispute this local farmer's comments on this matter.
22. Field size and site access are not identified as a site limitation in the ALC Guidelines. This aside, the appellant's Report highlights that where there are practical constraints on cropping and land management, a pattern limitation is said to exist, and this seems a fair assumption. However, the evidence before me indicates that soil and site conditions do not vary significantly. Moreover, while the land is currently used for grazing, no convincing information has been presented to confirm that the land could not yield a wide range of agricultural and horticultural crops, that yields would be low or that the use of the land is limited to grass. In light of this, even if it is accepted that the access and field size reduces the versatility of the land in question, I remain unpersuaded by the submitted evidence that the site is not BMV land.
23. Policy EN13 of the Local Plan goes on to state that permission for development affecting such land will only be granted exceptionally if there is an overriding need for the development and either: sufficient land of a lower grade is unavailable or available lower grade land has an environmental value recognised by a statutory designation and outweighs the agricultural considerations, or the benefits of the development justify the loss of high quality agricultural land.
24. Overriding need is not defined in Policy EN13, and this requirement appears a somewhat higher test than the provision set out in the National Planning Policy Framework (The Framework). In respect of this matter the Framework requires decisions should contribute to the natural and local environment by amongst other matters, recognising the wider benefits of the BMV agricultural land.
25. The Framework goes on to clarify plans should allocate land with the least environmental value where consistent with other policies of the Framework. It is also stated, at footnote 62, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality of land should be preferred to those of higher quality. This provision of the Framework is generally reflected in the requirements of Policy EN13. National guidance also advises account should be taken of smaller losses (under 20ha) [of BMV land] if they are significant and decisions should avoid unnecessary loss of BMV land.
26. The proposal is defined as a major development and would be significant in this regard. As a housing scheme, the development would result in the loss of land for agricultural uses in the long term. Also, given the limited information submitted the appellant has failed to demonstrate in this case that the appeal site is not BMV land or that sufficient land of a lower grade is unavailable for this development.



27. In light of this, I find there is insufficient information to conclude that the proposal would be acceptable in respect of the loss of agricultural land. The proposal would not accord with Policy EN13 of the Local Plan in this regard. I will address the matter of benefits in the following section.

### **Other Matters and Planning Balance**

28. Strategy 34 of the Local Plan sets out the affordable housing targets for the district. This Policy requires a target of 25% dwellings in residential development in stated areas. Outside of the areas listed, and this includes the appeal site, 50% of dwellings shall be affordable. The Policy goes on to clarify of this provision 70% should be social or affordable rental accommodation and 30% intermediate or other affordable housing.
29. The appellant, through this appeal process, has submitted a signed and dated legal agreement made under Section 106 of the Town and Country Planning Act 1990 as amended. Schedule 1 of the agreement binds those with title to the appeal site, and their successors, to make provision for 50% of the dwellings in the development to be affordable housing units, comprising seven shared ownership, sixteen social rented and eight first homes.
30. Strategy 43 of the Local Plan relates to the district's open space standards. Developments of 50 – 199 dwellings will be required to provide amenity open space, and children and youth play space on-site as per standards set in the Local Plan. While indicative only, the illustrative site layout shows that even with the number of dwellings proposed there would be space in the site for open space provision as required by this Policy. Also, Schedule 2 of the appellant's legal agreement makes provision for on-site open space covenants with the Council.
31. The Council's Compliance Statement indicates there is no mechanism to ensure ongoing maintenance of the open space, and this is in conflict with Strategy 43. However, Schedule 2 of the legal agreement has provision for a maintenance period and with this commitment I am content that this conflict is resolved.
32. I find the legal agreement to be legally sound and in respect of affordable housing and open space provision this obligation satisfies the tests set out in relevant Regulations and national guidance. Consequently, the proposal would accord with Strategy 34, Strategy 43 and Strategy 50 of the Local Plan and Policy NP14 of the Neighbourhood Plan with regards these matters.
33. The Council has not raised concerns about flood risk, highway safety, adequate parking or impact on neighbouring residents, subject to approval of reserved matters and conditions. However, even if I agree with this, development should be acceptable in these terms and these factors do not therefore alter the planning balance in this case.
34. The Council's latest position statement suggest it has a housing land supply (HLS) of 4.5 years. The appellant asserts that the HLS is only 4.28 years, however limited information has been submitted to support this assertion. This aside, the Council's position statement indicates that the annual requirement is based on local housing need (standard method) and no convincing evidence has been presented which would lead me to question that this statement does not reflect the latest national guidance on this matter. The basic annual requirement is stated as 910 dwellings and the shortfall from a 5 year HLS is indicated as 457 dwellings which is significant.



35. The evidence also indicates that the latest published Housing Delivery Test shows the delivery of housing in the district was above 75% of the housing requirement over the previous three years.
36. The current Local Plan is over five years old and the Council states that as it has published an emerging local plan under the Regulation 18 stage, in line with Paragraph 226 of the Framework, it is only required to demonstrate a 4 year HLS. This is disputed by the appellant, who contends that the Regulation 18 plan in question does not include proposed allocations.
37. While not referenced as 'proposed', Strategic Policy 22 lists potential sites for allocation at Ottery St Mary. These are categorised as preferred or second choice sites. Also, some sites have been rejected by the Council. Describing the emerging plan as 'draft' and identifying a selection of potential sites is not surprising at this early stage of plan preparation, and as outlined previously there is a high degree of certainty that this emerging plan will change. Nevertheless, this early stage emerging plan includes preferred allocations that would work towards meeting housing needs in the district; these allocations are proposed by the Council and are shown on a Policies map.
38. Attention in relation to this matter is drawn to an appeal decision for development in Dorset. In that case, while the background information from a previous Regulation 18 process was being drawn upon, the process of that plan was at that time yet to be started in earnest. That appeal was in a different district where the circumstances are distinctly different to that outlined above for East Devon. My findings are not altered by that decision accordingly.
39. In any event, housing land supply should not be seen as a cap and as stated in the evidence, the Council has already identified that it is vital to bolster the housing land supply in the district. To this aim, this proposal would result in up to 63 new homes, half of which would be affordable. This would make a considerable contribution to the Government's objective to significantly boost the supply of homes and to the district's annual housing requirement. The resultant supply and mix of homes, as well as provision of affordable units, would amount to considerable benefits.
40. Although located in the countryside, there would be some bus services available to future residents and it is understood these services connect with railway stations and major towns. The proposed pavement would provide the option to walk to services in Ottery St Mary, which is defined as an Area Centre in the Local Plan. This accessibility to services has support in the Framework and weighs in favour of the proposal.
41. There would be economic benefits through the construction phase, contributions to the Community Infrastructure Levy and payments to the New Homes Bonus. Further economic benefits would be derived during the lifetime of the development with future occupants supporting local services.
42. The evidence advanced indicates that the proposal could result in biodiversity net gain at the site. The development could also incorporate low carbon measures and make provision for decentralised energy sources. These environmental benefits could be secured by conditions. Also, the provision of open space is required by local policy but, nonetheless this would be a significant social and environmental benefit for existing and future residents. While these benefits would be moderate given the scale of the development, they would be significant.

43. Landscaping is proposed and again this could be secured at reserved matters and through condition. Such a scheme could protect existing trees and hedges. Also, some of the existing hedges would benefit from maintenance and diseased trees may need replacing. However, there is no compelling evidence that this visually harmful development would be the only way of securing these positive outcomes, and this counters any benefit that may arise in this respect. Moreover, as already outlined a landscaping scheme could not adequately mitigate the substantial harm to the character of this area.
44. The appellant asserts that Policies of the development plan are out of date given the housing land supply situation in this district. Addressing this matter, although Local Plan Policies seek to restrict development in the countryside, criteria is provided to allow consideration of such proposals. The Policies do not therefore appear overly restrictive in this respect. In this regard the Policies reflect provisions of the Framework which seek to enhance or maintain the vitality of rural communities.
45. Also, Strategy 7 of the Local Plan and Policy NP1 of the Neighbourhood Plan seek to maintain rural character. This appears consistent with provisions of the Framework that require decisions should contribute to the natural and local environment by, amongst other matters, recognising the intrinsic character and beauty of the countryside.
46. Moreover, Policy D1 of the Local Plan requires development to be of a high quality design and locally distinctive, and this is consistent with the Framework which seeks well-designed and beautiful places. The Framework, related to this matter, highlights that good design is a key aspect of sustainable development and decisions should ensure that developments, amongst other matters, are sympathetic to local character. For the reasons set out above, this would not be the case with this proposal.
47. I have already identified some inconsistencies with Policy EN13 of the Local Plan and the Framework on the matter of BMV land. However, while aspects of the Policy appear onerous, there is some flexibility. This flexibility includes the consideration of benefits of the development. Moreover, the Policy goes on to state that if BMV land needs to be developed and there is a choice between sites in different grades, land of the lowest grade must be used except where other sustainability considerations outweigh land quality issues. This generally reflects the approach on this matter set out in footnote 62 of the Framework.
48. Even if it is accepted that there is an overriding need for this scheme and that it has been demonstrated that significant development of agricultural land is necessary to address any shortfall in housing land supply, the evidence submitted in this case has failed to persuade me that this site is a poorer quality of land and should be preferred for this development.
49. I find the Policies most relevant and important in this case to be in general accordance with the Framework. The social, economic and environmental benefits of this proposal, when considered collectively, would be considerable. However, this is set against the substantial harm to the character of the area that would occur and the conflict with Local Policy and the Framework in this regard. There would also be inconsistencies with Local Policy, the Framework and national guidance in respect of having regard to higher quality agricultural land and potential unnecessary loss of BMV land.

50. Therefore, if I was to agree that Paragraph 11 d) of the Framework is relevant in this case, I find that the substantial adverse impacts of the development would significantly and demonstrably outweigh the considerable benefits identified above, when assessed against the policies of the Framework taken as a whole.
51. The Council's officer recommended permission be granted in this case. Be this as it may, Councils are not bound to accept the recommendations of their officers.
52. The similarities regarding the planning balance for the Gerway Close development are noted. However, as already outlined, unlike that development, in this case, not only would the rural character be largely lost, but the development would also be visually set apart from the edge of the town and harmful in this regard. Therefore, even if the benefits of this proposal justify the loss of the agricultural land, substantial harm would still occur. That development is distinctly different in this regard and has not altered my findings for this reason.
53. Attention is drawn to Court judgments related to the application of development plan policies. In respect of this, Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. While there may be local policies that are not in dispute in this case, I have found that this proposal would result in substantial harm to character and conflict would arise with local policies in this regard. Also, inconsistency with policies related to BMV land have been identified. There would be conflict with the development plan when read as a whole. The material considerations identified do not indicate a decision otherwise than in accordance with the development plan in this case.
54. The appeal site is in the Zone of Influence of the East Devon Pebblebed Heaths Special Area of Conservation and Exe Estuary and East Devon Heaths Special Protection Area. A legal agreement related to this matter has been submitted. However, as this appeal is being dismissed on other grounds there is no need to address this matter.

## **Conclusion**

55. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

*A J Sutton*

INSPECTOR



---

## Appeal Decision

Site visit made on 28 August 2024

**by K Jones BA (Hons) DipLA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 December 2024**

---

**Appeal Ref: APP/U1105/W/23/3334808**

**Land at the rear of 9 Tip Hill, Ottery St Mary, Devon EX11 1BE**

- 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 Gary Conway against the decision of East Devon District Council.
  - The application Ref is 23/0102/FUL.
  - The development proposed is a new dwelling.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the address above from the appeal form as this most accurately describes the location of the appeal site. I have also deleted the address from the description of development as this is not an act of development.
3. Although the appellant has made reference to the emerging local plan for East Devon, the evidence indicates that the draft plan has not reached a sufficiently advanced stage in its preparation for its policies to attract weight for the purposes of the determination of this appeal. I have therefore determined this appeal in accordance with the adopted development plan.

### Main Issues

4. The main issues are:
  - The effect of the proposal on the living conditions of neighbouring occupiers at 9-15 Tip Hill with regard to privacy and outlook, and whether the proposal would provide adequate living conditions for future occupiers with regard to privacy; and
  - Whether the proposal would conserve or enhance the character or appearance of the Ottery St Mary Conservation Area (CA).

### Reasons

#### *Living conditions*

5. Existing dwellings at 9-15 Tip Hill lie to the immediate west of the proposed dwelling and its garden. The ground level between neighbouring properties and the appeal site is markedly different, with the small rear courtyard gardens of the existing dwellings sitting noticeably below the adjacent appeal site. Retaining walls with modest walls or fences above provide separation

between the adjoining plots of land, but close-proximity views down into the neighbouring gardens are available from within the appeal site. While small, these garden spaces provide usable outdoor space for occupiers of these dwellings, and are therefore of considerable amenity value.

6. A 1.8m high close boarded fence is proposed to all boundaries of the site, which would restrict overlooking between neighbouring garden spaces. However, for the existing dwellings with small gardens already below the adjacent ground level, the addition of a 1.8m high boundary above the existing retaining walls would create a highly enclosed and oppressive outdoor environment, harming the outlook from these properties.
7. While the proposed boundary fence would prevent close intervisibility at garden level, upper floor rear-facing windows of 11, 13, and 15 Tip Hill would have direct and unobstructed views over the fence into the primary garden space of the proposed dwelling. This degree of overlooking would result in unduly harmful effects on the privacy of future occupiers. Moreover, any sufficiently tall screening to restrict such views would significantly harm the outlook from existing dwellings on Tip Hill, worsening the effect of the proposed fencing.
8. There would also be direct intervisibility between upper floor rear-facing windows of Nos 11, 13, and 15 and the west-facing windows of the appeal dwelling. Given the elevated site levels, this would include the lounge and dining room windows on the ground floor, and a bedroom on the first floor. Even if the bedroom window were to be obscure glazed, there is no indication that the occupiers would be unable to open it, reducing the effectiveness of any glazing treatment. I have not been presented with any formal guidance produced by the Council on acceptable separation distances between facing habitable room windows. However, the appellant identifies that there would be approximately 17m between facing windows. This falls below the often-quoted 21m separation distance required to maintain acceptable levels of privacy in such circumstances. This indicates that there would be harmful effects on the privacy of both existing and future occupiers as a result of direct views between facing windows.
9. To the south, the proposed dwelling would be close to the shared boundary with larger rear gardens associated with dwellings on Tip Hill. The southern elevation of the dwelling does not contain any windows, and no overlooking of these gardens would occur. Moreover, with the proposed gable addressing only a small section of the relatively generous gardens, the physical massing of the proposal would not harmfully affect the outlook from either garden space.
10. The Council has also raised concerns regarding the potential for overlooking of amenity spaces to the east of the appeal site, which appear to be associated with commercial premises on Jesu Street. The evidence is not clear on the use of these spaces, nor was their use apparent at my site visit. If these provide garden space associated with residential properties, the proximity of the proposed dwelling and the clear-glazed bedroom windows on the first floor overlooking the adjacent space would result in a substantial loss of privacy.
11. However, even if the adjoining spaces are commercial and no loss of neighbouring privacy to the east would occur, for my reasons above there would remain harmful effects on the living conditions of neighbouring and

future occupiers as a result of the ground level changes in the area, the proposed boundary treatments, and the siting and orientation of the proposed dwelling. While only a small number of immediately adjoining neighbours and the occupiers of the appeal dwelling would be adversely affected, this would not lessen the harm experienced.

12. I therefore conclude on this main issue that the proposal would result in unacceptable harm to the living conditions of neighbouring occupiers at 9-15 Tip Hill with regard to privacy and outlook. It would also fail to provide adequate living conditions for future occupiers with regard to privacy. It would therefore conflict with Policy D1 of the East Devon Local Plan 2013-2031 (the Local Plan) and Policy NP2 of the Neighbourhood Plan for the Parishes of Ottery St Mary and West Hill (2017-2031) (the Neighbourhood Plan) in so far as they seek development that does not adversely affect the amenity of occupiers of adjoining residential properties and the amenity of occupants of proposed future residential properties.
13. Although not referred to in its reasons for refusal, the Council has also found conflict with Policy NP3 of the Neighbourhood Plan, which relates to Infill, Backland and Residential Garden Development. This includes similar requirements to protect the amenity of neighbours, and sets out that residential development in these locations will be resisted if it adversely affects neighbouring properties by overlooking. For my reasons above I also find conflict with this policy.
14. The appellant asserts that any harm to neighbouring living conditions would be outweighed by the cessation of the existing use of the site as a builder's yard. While the evidence indicates some past storage of materials and parking on the site, there is little before me to demonstrate that this has caused harm to neighbouring living conditions. Moreover, it is not for me, under a section 78 appeal, to determine whether or not a storage or builder's yard use of the land is lawful. In the absence of a lawful development certificate or other confirmation from the Council that such a use of the land is lawful, I can only attribute this matter limited weight, and it does not alter my overall conclusion in respect of this main issue.

#### *Character and appearance*

15. The appeal site lies within the Ottery St Mary CA. In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
16. The significance of the CA as a whole is derived in part from the historic street network of the town centre reflecting its market town origins, along with a wider collection of later 19th and early 20th century commercial and residential buildings. The area of town centre associated with the site is characterised by long terraces of red brick and render two storey properties, creating a strong building line directly addressing the street.
17. Despite individual variation in the buildings, there is a striking consistency in the scale and form of the terraced properties, the form of the slate roofs, and the proportions of the upper floor window openings. Brick chimneys and traditionally proportioned and detailed dormers are also common features of



the roofscape on Tip Hill. To the rear of the main streets in this part of the CA, long gardens create a sense of space with trees visible in the street scene. While limited, buildings behind the street frontage have a commercial or industrial character, with larger span or traditional brick-built industrial buildings present.

18. The special historic and architectural interest of this part of the CA therefore lies in the uniformity of the alignment, scale, and form of the historic buildings fronting the streets, the coherence and rhythm of their architectural features, and the contrast between the busy, tightly spaced frontages and the looser pattern of long gardens with occasional industrial and commercial development to their rear. At present, while much of the on-site vegetation has been cleared, the open appeal site forms part of the loosely developed open land to the rear of the terraces, making a modestly positive contribution to the pattern of development and the significance of the CA.
19. The proposal would introduce a dwelling with a scale, form, and overall appearance that would be out of keeping with this pattern of development, reflecting neither the terraces fronting the roads, or the looser industrial development to their rear. While the proposed materials have taken cues from the surrounding area, modern details including the wide span of the dwelling, the wide and split nature of its upper floor windows, and the porch feature would each contrast with the distinctive building characteristics of this part of the CA. In addition, the considerable lengths of close boarded fence to the boundaries would introduce visually prominent and uncharacteristic boundaries in an area characterised by traditional brick and stone walls. The proposal would therefore weaken and undermine the strength of character of this part of the CA.
20. While there would be very little public visibility of the proposal, there would be considerable visibility from neighbouring dwellings and commercial premises which enclose the appeal site to the north and west. The proposal would therefore have sufficient prominence to result in harm to the character and appearance of the CA.
21. I therefore conclude that the proposal would not preserve the character or appearance of the CA, and would cause harm to its significance as a designated heritage asset. This would conflict with Policies D1 and EN10 of the Local Plan, and Policy NP22 of the Neighbourhood Plan. Taken together, amongst other matters, these policies seek to conserve or enhance the character and appearance of the area, ensuring that development does not adversely affect the distinctive historic or architectural character of the area, or the urban form in terms of significant street patterns, groups of buildings and open spaces. They also seek to ensure that the scale, massing, and fenestration of buildings relate well to their context.
22. Again, while not part of the Council's reason for refusal, reference has been made to Policy NP3 of the Neighbourhood Plan. In respect of this main issue, it seeks proposals that reflect the character of the surrounding area, including the scale, mass, height and form of neighbouring properties. It also sets out that boundary treatments for new curtilages should reflect that prevailing in the area. For my reasons above, I also find that the proposal would conflict with this policy.

23. The harm which would be caused to the significance of the CA would be less than substantial, but nevertheless of considerable importance and weight. Under these circumstances, paragraph 208 of the National Planning Policy Framework (the Framework) indicates that this harm should be weighed against the public benefits of the proposal. I shall therefore consider these matters further in the overall heritage and planning balance.

### **Other Matters**

24. While I recognise that the scheme has evolved during the application to seek to address the Council's concerns, I have based my determination on the latest plans, which are those on which the Council made its decision. Despite the changes made to the scheme, I have found harm in relation to the main issues as set out above.
25. My attention has been drawn to an appeal at Silver Street<sup>1</sup>, which allowed a new dwelling to the rear of a terrace of properties in the CA. I do not have full details of this proposal or the matters before the Inspector when the decision was made, however I note from the Council's evidence that there were different main issues under consideration, and a different policy context at the time of the decision. The scheme at Silver Street does not therefore represent a direct comparison to the scheme before me. I have considered the appeal proposal on its own merits and reached my own conclusions based on the evidence, the current policy context, and my own judgement.
26. The appeal site is within the zone of influence for the East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. Although both main parties have provided information in this regard and the appellant has outlined their willingness to pay any necessary contributions to secure appropriate mitigation, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

### **Heritage and Planning Balance**

27. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of whether the harm to its significance is less than substantial. Paragraph 208 of the Framework requires the less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
28. The appeal proposal would undoubtedly offer social and economic benefits that are also public benefits. As a self-build property, benefits would arise from the delivery of housing, increasing the choice of homes available, and contributing to the Government's objective to significantly boost the supply of homes. Further benefits would arise from the dwelling's location, as future occupiers would support local services and facilities in the town centre, with good access

---

<sup>1</sup> Appeal reference APP/U1105/W/16/3156902



to public transport options. There would also be temporary economic benefits relative to the construction phase. Public environmental benefits would be secured through enhanced landscaping of the site, and energy-efficiency measures including building fabric improvements and the installation of renewable energy technologies. However, that there would be no harm in respect of matters including flooding, highways, or bin and cycle storage are neutral considerations that do not carry weight in favour of the appeal.

29. The social, economic, and environmental benefits, which are also public benefits, associated with a single property would be modest. Taken together, the cumulative weight of benefits would be moderate and not sufficient to outweigh the great weight that the conservation of a designated heritage asset carries. The proposal therefore fails to accord with the historic environment protection policies of the Framework.
30. I have found that the proposed development would conflict with Policies D1 and EN10 of the Local Plan, and Policies NP2, NP3, and NP22 of the Neighbourhood Plan. These policies are generally consistent with the Framework where it identifies that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance, along with its aims to create well-designed and beautiful places with a high standard of amenity for future users. As such, I afford significant weight to the conflict of the proposal with these policies.
31. The evidence indicates that the Council's draft local plan has reached Regulation 18 stage. Paragraph 226 of the Framework sets out that in these circumstances, the local planning authority is only required to demonstrate a minimum of 4 years' supply of deliverable housing sites. I have not been provided with an up-to-date figure for the Council's housing land supply position, though I note that at the time of its decision it was less than 5 years.
32. However, even if the Council is unable to demonstrate the required 4-year supply of housing, I have already found that harm to the significance of the designated heritage asset would not be outweighed by public benefits. This provides a clear reason for refusing the development proposed under the provisions of paragraph 11(d)(i) and footnote 7 of the Framework. As such, even if paragraph 11(d) of the Framework were engaged by The Council's housing land supply position, the balance in favour of granting planning permission given by paragraph 11(d) would not apply.

### **Conclusion**

33. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should therefore be dismissed.

*K Jones*

INSPECTOR



# Memo

To: Clerk To Ottery St Mary Town Council

From: Arboricultural Team

Your Ref:

Our Ref: 24/0021/TPO

Date: 5 December 2024

**SUBJECT:**

**TREE PRESERVATION ORDER**

**PROPOSAL: Land at 40, North Street, Ottery St Mary**

**TPO NO: 24/0021/TPO**

---

I would inform you that the above Tree Preservation Order made in respect of land in your area has been confirmed.

Arboricultural Team  
Countryside Services

To assist with the smooth running of the meeting, the Chair will allow members of the public present to submit questions/comments relating to items on the agenda for consideration prior to the application being heard. Individual contributions will be limited to 3 minutes. Where there is a group of objectors or supporters for an application, a spokesperson should be appointed to speak on behalf of the group. The Chair will invite the member of public to speak, after the application has been introduced.

**P/24/12/1 To consider and determine observations on the following Planning Applications:**

Reference	Applicant	Details
1)	<a href="#">24/2431/TCA</a> Practice Manager Melanie Gooding	Yew (group): all round crown reduction by to 50% <b>The Coleridge Medical Centre, OSM, EX11 1EQ</b>
2)	<a href="#">24/2103/FUL</a> Mr Wayne Lyness	Installation of freestanding toilet block <b>Plot at Wildwood , Escot Park, OSM</b>
3)	<a href="#">24/1724/FUL</a> Mr Julian Sanders	Proposed removal of existing dwelling. Construction of 1 no dwelling and garage <b>Tall Timbers, Tipton st John, EX10 0AR</b>
4)	<a href="#">24/2450/TRE</a> Ms Jodie Williams	G1, Holly : - coppice main stem and reduce remaining to 2m above ground level <b>Sundial Nursing Home, Tipton St John, EX10 0AG</b>
5)	<a href="#">24/2387/FUL</a> Mr Mark Witherall	Partial conversion from offices to residential flat including first floor extension on south elevation, and changes to fenestration <b>8 Jesu Street, OSM, EX11 1EU</b>
6)	<a href="#">24/2558/TRE</a> Ms Eleanor Etherington	T1, Ash: crown reduction to just above the major branch unions at a height of 5-6m <b>40 North Street, OSM, EX11 1DR</b>

**P/24/12/1 To receive Councillors' questions relating to Planning Matters**

**P/24/12/1 Date of the next meeting: TBC**