

OTTERY ST MARY TOWN COUNCIL

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20 May 2026

Dear Councillors

I hereby give you notice that the **Planning Committee** of **OTTERY ST MARY TOWN COUNCIL** will be held at **18:30 on Tuesday, May 26, 2026**, at **Ottery St. Mary Town Council Offices, 8 Broad Street, Ottery St Mary EX11 1BZ.**

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

Yours faithfully

Kerry Kennell

Town Clerk

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. For members of the public/press that wish to speak at the meeting, under public participation, please raise your hand and wait for the Chair to prompt you.
2. For those who have no visual access to the meeting, Members will state their name before speaking and voting.
3. The order of business may be changed by a decision of the Council and by resolution without notice.

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 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 Chair may approve an exception to this request in special circumstances

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AGENDA

P/26/05/11 Apologies for Absence

To receive apologies for absence

P/26/05/11 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/26/05/11 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/26/05/11 Reports, Correspondence and Items referred to the Committee

25/0839/FUL	1 Broad Street, Ottery St Mary	Appeal allowed
25/0509/MOUT	Ottery Road, Feniton	Appeal dismissed
25/0809/FUL	1 Silver Street, Ottery St Mary	Appeal allowed
To note amended comments on 26/0705/PDQ - The Poultry Barn, Feniton following a site visit on 8th May 2026 agreed via delegated authority: The Council would like to reiterate the following comments submitted on 4th December 2025: 1. This proposal represents development in the wrong location. This does not align with the intended use of the area for employment as designated by EDDC. 2. This site is not included in the new East Devon Local Plan further confirming unsuitability for residential conversion. 3. All prior objections submitted by the Council still stand. We refer back to the previous officer's report and the points raised, as nothing has changed in the circumstances.		

P/26/05/11 Minutes

To receive the Minutes of the Meeting of the Town Council of 29th April 2026 and to approve the signing of the Minutes by the Chair as a correct record

P/26/05/11 Planning Decisions Received

25/0017/EIA	Land Adjacent to Gerway Nurseries, Gerway Close	Closed
26/0275/FUL	8 Jesu Street, Ottery St Mary EX11 1EU	Approval with conditions
25/2461/FUL	Stonehill Quarry Lodge, Lancercombe, EX10 OJX	Approval with conditions
26/0559/TCA	2 Dunkirk Cottages, Cadhay, EX11 1QS	TPO Not Required
26/0497/FUL	7 Meadow Close, Ottery St Mary EX11 1EW	Approval with conditions
26/0607/TCA	Grandissons Court, The College, OSM EX11 1DZ	TPO Not Required
26/0872/PRETDD	Fire Station, OSM EX11 1AQ	Application closed
26/0748/AGR	Agricultural Building, ,Gipsies Lane, Tipton St John EX10 OLR	Refusal

25/0061/TPO	Land adj.Sunnyland Cottage, OSM	TPO granted
26/0666/FUL	9 Washbrook View Ottery St Mary EX11 1EP	Approval with conditions
26/0649/TRE	Salson Manor Ottery St Mary EX11 1LD	Approval with conditions
26/0388/FUL	5 Coombe Vale Tipton St John EX10 OAU	Approval - standard time limit

P/26/05/11 Public Participation

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/26/05/11 To consider and determine observations on the following Planning Applications:

26/0735/FUL	Mrs Angela Glanville Higher Barnes, Wiggaton, OSM EX11 1PY	Installation of an array of 7 solar panels on the south-facing roof of the studio/pottery barn at Higher Barnes, Wiggaton. Installation of a battery inside the studio.
26/0860/PDQ	Ms Fiona Hamilton-Bryant Barn Wiggaton, Ottery St Mary	Application to determine if prior approval is required for change of use of the agricultural barn to 2no. dwellings (Use Class C3)
26/0551/FUL	Ms H Blackmore Coldharbour Farm East Hill Ottery St Mary EX11 1QL	Change of use of farm shop to a dwelling
26/0880/TRE	Markia Elliot 15A Silver Street Ottery St Mary EX11 1DB	T1: Copper Beech: 20% crown reduction by reducing branch lengths by 2m, maximum diameter cuts of 100mm.
26/0553/LBC	Mr Mathew Spencer Tumbling Weir Hotel and Restaurant Canaan Way Ottery St Mary EX11 1AQ	Install 2no. air source heat pumps (ASHP) on flat roof extension on north elevation; removal of mechanical extraction unit on rear north elevation & east elevation & make good; install low level extraction vent on north elevation; removal of walls in Function Room; install new

		kitchen, waste pipes & mechanical extraction in old Function Room; removal of walls on ground & first floor; removal of walls in 1980s extension to re-configure bedrooms into family bedrooms & bathrooms and replacement of all internal doors on first floor
26/0955/FUL	Mrs Therese Luce Cadhay Barton Cadhay Ottery St Mary EX11 1QY	Partial demolition and extension of existing boot room, replacement of existing pitched roof with flat roof, conversion of existing garage, installation of new doors and windows including French doors to the rear elevation, and removal of existing roof cupola. Proposed raised terrace to the rear.

P/26/05/11 To receive Councillors' questions relating to Planning Matters

P/26/05/11 Date of the next meeting: TBC



Appeal Decision

Site visit made on 25 February 2026

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 08 May 2026

Appeal Ref: 6002034

1 Silver Street, Ottery St Mary, Devon EX11 1DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lawrence Arnold of Arnold Ramos Ltd against East Devon District Council.
 - The application Ref is 25/0809/FUL.
 - The development proposed is change of use from Office/Retail (Class E) to 2no new dwellings (Class C3) on the 1st and 2nd floor including self-contained stairwell.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from Office/Retail (Class E) to 2no new dwellings (Class C3) on the 1st and 2nd floor including self-contained stairwell at 1 Silver Street, Ottery St Mary, Devon EX11 1DB in accordance with the terms of the application, Ref 25/0809/FUL, subject to the conditions in the attached schedule.

Background and Main Issues

2. The appeal results from the Council's failure to determine the application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the officer report that the Council prepared for the appeal, which advises that it would have refused the application as it is of the view that insufficient information has been provided to adequately demonstrate that the safety of future occupants can be achieved during a flooding event.
3. Accordingly, a main issue for the appeal is whether the site is suitable for the proposed development having regard to the risk of flooding.
4. An additional main issue is whether there would be likely to be a significant effect on the internationally important features of the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths SPA.

Reasons

Flooding

5. The proposal is to reinstate the residential use to the first and second floors of the appeal building, in the form of two self-contained flats. The building is located within flood zones 2 and 3 and is therefore subject to a higher risk of flooding.
6. As the proposal is for a change of use it should not be subject to the sequential test or the exception test, with reference to Paragraph 176 of the National Planning

Policy Framework (Framework). It is however necessary to provide a site-specific Flood Risk Assessment (SSFRA), and this has been submitted.

7. The SSFRA establishes that the appeal building is within the natural drainage catchment of the river Otter, which is over 10 metres lower in elevation and 300 metres to the east. Immediately to the south is the Furze Brook culvert, which has been subject to significant upgrades. The SSFRA sets out details of mitigation measures upstream that were carried out in 2019 and 2020 that has reduced peak flows.
8. Although the Environment Agency flood map shows that it is within an area with a high risk of flooding, during recent flood events in 2019 and 2026 the site did not flood. Previous tenants of the building who have occupied it for 40 years report that the stairwell has not flooded in that time. Indeed, the most significant flooding event recorded was in 2008 where flood waters reached a height of 0.2 metres at the building, which is below the level of the entrance door to the proposed flats. Accordingly, the SSFRA suggests that the actual risk of flooding at the site is very low.
9. If a flooding event did occur at the site and on the basis that climate change is likely to exacerbate the frequency and intensity of flooding events, the Council is concerned that the SSFRA does not include a flood warning and evacuation plan to ensure the provision of safe access and escape routes. This is with reference to Paragraph 181 e) of the Framework.
10. The proposal is for the reinstatement of two residential flats to the first and second floor. They would utilise an existing access onto the road. Planning Practice Guidance¹ (PPG) advises that where it is not possible to provide safe access routes that are located above design flood levels, limited depths of flooding may be acceptable. The evidence before me suggests that if flooding did occur it would be at a low level and would not be fast flowing. It would be reasonable to expect most occupants to be able to exit the building and walk a short distance of 10 metres to dry ground, noting that the dry area would be visible from the flats and the entrance door. This distance is much less than the strategy suggested for the Hind Street Gallery application.
11. As an alternative, large sash windows at the front of the building would make rescue from a higher level relatively straightforward, and the layout suggests that the first floor utility room window would be accessible to both flats. There is no reason to conclude that a future occupant who requires rescue would need to wait for several hours, as the Council suggests, especially as the building is not isolated and the severity of flooding outside the building is likely to be low. Furthermore, unlike the situation at Tumbling Weir, flood water at the site would be likely to recede quickly due to its direct drainage path into the river Otter. In any case, the flats would be self contained and well above the potential flood level, such that they would provide a safe refuge if egress is not possible. Awaiting rescue would not therefore put future occupants of the proposed dwellings at risk, and the modest size of the flats and relatively low level of risk would not place an unreasonable demand on emergency services.

¹ Paragraph: 047 Reference ID: 7-047-20220825

12. The PPG² establishes that an emergency plan will be needed wherever emergency flood response is an important component of making a development safe. For the reasons given I am not satisfied that this would be the case for the appeal proposal.
13. In terms of the other relevant parts of Paragraph 181 of the Framework, the SSFRA refers to raising the height of electrical fittings on the ground floor, and the traditional construction and tiled floor surface means that the area could be brought back into use quickly and without significant refurbishment if it did flood.
14. The SSFRA refers to the Environment Agency flood warning service, and recommends that all future occupants sign up to ensure they are notified of any predicted flooding events. I accept that there is no way that this can be enforced however the PPG recognises this provision as a method of managing residual risk. In any case, even if an occupier was not aware of the potential for a flooding event, for the reasons given I am satisfied that the actual risk to safety is low. Therefore, whilst recommending the use of the flood warning service will be beneficial, it is not essential to make the development safe.
15. Based on the straightforward characteristics of the site, the low level of flooding that could occur at the site and the close proximity between the site and land that should not flood, I am satisfied that the provision of an emergency plan is not necessary to make the development acceptable. The reinstatement of the residential use to the upper floors of the building does not create an unsafe environment for future occupants or put others at risk. The proposal thus accords with Local Plan Strategy 6, which seeks to ensure that development proposals do not adversely affect risk of flooding.
16. The Council refers to Policy EN21 of the East Devon Local Plan 2013 to 2031 (LP). It is however clear that this Policy should not be determinative as it excludes proposals for a change of use where the size of the building is not increased.

Protected Species

17. The appeal site is close to the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths SPA. The Exe Estuary supports overwintering bird populations and an internationally important assemblage of birds. The Pebblebed Heaths is an important area of lowland heath that supports populations of breeding Nightjar and Dartford Warbler, which are both ground nesting birds.
18. The Exe Estuary is small and there is limited space for people and birds. Human presence and activity associated with the Exe Estuary can lead to physiological impacts, such as increased stress, the redistribution of birds, the reduced intake rate of food as a response to disturbance, and increased energy expenditure as birds react to disturbance. The South-east Devon European Site Mitigation Strategy (the Strategy) advises that such disturbance can be considered similar to habitat loss, and where significant effects cannot be ruled out or avoided, measures to mitigate for any potential impact are required. For the Pebblebed Heaths the impacts of recreational pressure include disturbance to ground nesting birds that can negatively impact on breeding productivity, and risk of wildfire.

² Paragraph: 043 Reference ID: 7-043-20220825

19. The proposal would result in the permanent increase of persons residing at the site. This increase could have a significant effect on the protected habitats and interests of the protected sites because persons residing at the appeal site could access the protected areas for leisure purposes. On this basis, either alone or in combination with other plans and projects, the proposal would be likely to have a significant effect on the integrity of the Protected Sites and their relative features.
20. The Strategy sets out detailed mitigation measures and areas within which mitigation would be required where residential development is clearly linked to recreational use. The East Devon District Council – Habitat Mitigation Contributions (Valid from 1st April 2021) clarifies that the appeal site falls in the contribution zone for the Pebblebed Heaths, where a charge of £196.81 per new dwelling applies. The proposal is for two new dwellings, so a payment of £393.62 is required. The appellant has made a payment of this amount by way of an undertaking pursuant to S. 111 of the Local Government Act 1972 to cover this.
21. Natural England (NE) as the Statutory Nature Conservation Body was consulted during the appeal. NE is content that the financial contribution ensures that the development would not adversely affect the integrity of the sites and their relevant features, and that the method of payment that has been made is adequate. I am satisfied that this is an appropriate way to make the payment as only a single payment is required rather than a commitment to covenant on an ongoing basis. The undertaking specifies that the money is a mitigation contribution and to be used solely for such purposes.
22. On this basis the proposal would be unlikely to have a significant effect on the protected sites and would accord with Strategy 47 of the LP, which seeks to provide mitigation measures to offset adverse impacts on European Designated Sites.

Other Matters

23. The appeal building stands within the Ottery St. Mary conservation area (CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal is for the change of use of the upper floors. The only change referred to in the submissions is to replace the existing single glazing with double glazing, which is specified on the application form. This was amended to secondary glazing before the appeal was lodged. This would safeguard the external appearance of the building and ensure that the change of use would preserve the character and appearance of the CA.

Conditions

24. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the PPG. I have imposed condition 2 to specify the approved plans and the amendment to secondary glazing, to give certainty.
25. I have imposed condition 3 to ensure that appropriate facilities are provided for the storage of refuse, recycling and cycles to safeguard the character and appearance of the area, promote sustainable transport options and secure good living conditions for future occupants of the dwellings.

26. I have imposed condition 4 to ensure the safety of future occupiers of the dwellings.
27. I note that a condition is suggested by a consultee to cover construction hours, as the site is close to other residents who may be impacted during the construction phase. However, the changes are internal only and limited. I am not therefore satisfied that such a condition is necessary.

Conclusion

28. For the reasons given above the appeal should be allowed, and planning permission granted.

A Tucker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following: Location Plan (TQRQM25085100002201), drawing nos. AR155_PE_01 and AR155_PL_01 Rev C, and the email from Lawrence Arnold dated 05.07.25 that specifies secondary glazing to the windows that will serve the dwellings hereby approved rather than the double glazing originally proposed.
- 3) The facilities for the storage of refuse, recycling and cycles shown on drawing no. AR155_PL_01 Rev. C shall be provided prior to the first occupation of the residential accommodation hereby permitted. These shall thereafter be retained for these purposes in perpetuity.
- 4) The development hereby permitted shall be carried out in accordance with the measures for the mitigation of flood risk set out in the Flood Risk Assessment Ref: AR155_FRA_02 dated October 2025 prepared by Arnold Ramos Ltd.



Appeal Decision

Site visit made on 25 March 2026

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2026

Appeal Ref: 6002860

Land At Ottery Road, Feniton EX14 3UP

- 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 Bloor Homes (Exeter) against the decision of East Devon District Council.
 - The application Ref is 25/0509/MOUT.
 - The development proposed is erection of up to 85 dwellings, a community eco-hut and associated infrastructure (outline) with vehicular access to be determined; all other matters reserved.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters save for access reserved for future consideration. In terms of access, this would be the primary access from Ottery Road. As such, any plans depicting the proposed layout, internal accesses and landscaping, scale and appearance of the scheme, such as that detailed in the 'Illustrative Layout' have been taken as largely illustrative in nature.
3. The Council's decision notice sets out nine reasons for refusal (RfRs). Through the submission of the appeal documentation, including a unilateral undertaking (UU) made under s106 of the Town and Country Planning Act 1990 (as amended), the Council accepted that all but two of the RfRs had been adequately addressed. Whilst I assess the suitability of the UU for myself later in this decision, these outstanding RfRs are those that form the main issues in this appeal.

Main Issues

4. The main issues are:
 - whether the scale and location of the development would accord with the Council's spatial strategy, with particular regard to the distribution and location of housing, balanced communities and the need to travel, having regard to local policies, both adopted and emerging, and national policy; and
 - the effects of the proposal on the character and appearance of the area.

Reasons

Context

5. The appeal scheme is proposed to the west of Ottery Road, to the south-west of the village of Feniton. Feniton, or at least 'new' Feniton, is a village which has a small convenience shop, takeaway, hairdressers, community hall, public house,

sports ground and a primary school. Feniton is also situated on a mainline railway line with daily services that access Honiton, Exeter and London Waterloo.

6. The proposal is for a scheme of up to 85 dwellings. The Illustrative Masterplan suggests that this would comprise a mix of house types in a large cul-de-sac layout with pathways around the perimeter and generous areas of open space to the west, south and south-eastern parts of the site. A 'community eco-hub' is indicatively shown on the Illustrative Masterplan within the central part of the site.
7. Three previous proposals have been considered on the appeal site; one for c.59 dwellings and two for c.120 dwellings, all with associated employment floorspace. Two of these schemes¹ were considered as part of the same inquiry along with two other appeal schemes on other sites in Feniton.
8. In addition to the relatively recent completion of 25 dwellings, there are a number of other planned developments in and around Feniton. These include:
 - The 'Colestocks Road' scheme of up to 86 dwellings, allowed in outline on appeal in July 2025²;
 - The 'Burlands Mead' scheme of 35 dwellings, also highlighted as a preferred allocation in the emerging draft Local Plan 2020 – 2042 (the eLP) as site reference 'Feni_05' but also subject of a resolution by the Council's Development Management Committee to approve as of February 2025; and
 - The 'Beechwood' scheme of up to 60 dwellings, a preferred allocation under the eLP as site reference 'Feni_08' but also subject of a resolution to approve by the Development Management Committee as of February 2026³.
9. Given that there are recent resolutions to approve both the Burlands Mead and Beechwood schemes at the time of writing, and that there is an absence of evidence to suggest that any issues will prevent the completion of their respective awaited S106 agreements, I consider their status as broadly equivalent to planning permissions for the purposes of calculating the quantum of consented housing in the area. The commitments for Feniton therefore total c.181 dwellings, which with those built in the recent past take the total to c.206.
10. In addition to the above, there is a draft employment land allocation to the south of Bridge Cottages, Ref 'Otry_20' which would see a further expansion of the village, albeit for employment rather than residential development. However, this is still only a draft allocation and no related planning application has yet been submitted.

Scale, Location and Sustainability

11. Under the *East Devon Local Plan 2013 - 2031* (adopted 2016) (the Local Plan), Strategy 1 sets out that provision will be made for a minimum of 17,100 homes and that development in smaller, towns, villages and rural areas will be geared to meeting local needs. Strategy 2 then sets out the scale and distribution of residential development. Strategy 4 seeks to promote a balanced approach to the growth of communities in terms of matching jobs, homes, education and social and community facilities.

¹ Planning references 12/2648/MOUT and 12/2649/MOUT

² Under appeal reference APP/U1105/W/24/3357849 dated 11 July 2025

³ Under planning reference 25/1060/MOUT

12. Strategy 7 of the Local Plan sets out that development in the countryside will only be permitted where it is in accordance with a specific local or neighbourhood plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities of the relevant area.
13. The *East Devon Villages Plan* (adopted 2018) (EDVP) establishes built-up area boundaries (BUABs) for settlements, including Feniton, under policy VP01. The appeal site is outside of Feniton's BUAB and is therefore in the countryside in policy terms.
14. The *Feniton Neighbourhood Plan* (FNP) (made 2018) also includes a policy relating to the provision of housing, *policy H3: Housing developments*. This policy states that within Feniton's BUAB, developments will usually be supported where they include a range of house types. The FNP policies do not specifically allow for any housing development outside of the BUAB.
15. As such, the principle of development conflicts with the spatial strategy of the current adopted development plan as expressed through strategies 1, 2, 4 and 7 of the Local Plan, policy VP01 of the EDVP and policy H3 of the FNP.
16. The eLP has reached Regulation 19 stage, with the recent round of consultation having concluded in January 2026. The remainder of the timetable is expected to see the submission of the eLP for examination in Spring 2026, the examination to take place over the remainder of 2026 and with adoption scheduled at some point in the year 2027 without slippage in the timetable.
17. Draft strategic policy SP01 of the eLP directs significant growth to the West End and Main Centres. Feniton is identified in policy SP01 as a service village at the lowest end of the settlement hierarchy before the countryside. Within service villages, policy SP01 seeks to permit 'limited development' relative to their range of facilities and scale.
18. Draft policy SP03 sets out the total minimum housing requirement for the period and apportions 127 dwellings to Feniton. Whimple is the only other service village which has a higher anticipated growth allocation with all others being materially below 127 dwellings. By comparison, the tier 3 local centres of Budleigh Salterton and Colyton are each intended to grow by around 130 – 170 dwellings, with Lypstone and Woodbury each intended to receive around 320 - 365 dwellings.
19. For Feniton the growth allocation of 127 dwellings is also expressed in draft policy SD18 and is made up of the preferred site allocations for sites 'Feni_08' and 'Feni_05', cumulatively totalling around 102 houses and the scheme of 25 dwellings completed since 2020. The selection of the preferred sites for allocation has been extensively considered and as noted above, resolutions to grant planning permission are already in place for schemes on both of these sites.
20. ELP draft policy SP06 outlines that outside of the defined settlement boundaries, development will not be permitted unless it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development.
21. In terms of the need to travel and future residents' access to facilities, the appellant's position is that Feniton is a highly sustainable location because it has a railway station and that 85 houses would sustain local services rather than unbalance them. It is clear that in relation to a similar quantum of development, a

recent appeal decision highlights that despite the existence of some local facilities, residents would need to travel to larger centres for supermarkets, pharmacies and leisure services. The dominance of the car as the form of transport for commuting and daily needs was counted as a harm against that particular scheme.

22. The eLP seeks to designate Feniton as a tier 4 'service village' settlement to receive 'limited growth'. As such, the intent is not to permit an excessive or strategic scale of growth, particularly within an accelerated timeframe. The anticipated growth envisaged for the settlement has already been exceeded by the permission granted on the Colestocks Road scheme by around 86 dwellings. This is a significant scale of development relative to the anticipated level of growth of 127 dwellings and a similar number is proposed again by the appeal scheme. As only 25 dwellings have been delivered thus far of the total planned/committed, there is limited cogent evidence to demonstrate how the village's infrastructure capacity and social and physical fabric will keep pace with the total scale of change.
23. The availability of train and bus services differ to those on offer when compared to urban locations. The Framework highlights this distinction between urban and rural areas. However, the amount of unavoidable outward journeys for commuting and other reasons will have been considered in the context of these available public transport services in the intent of the eLP to allow a proportionate amount of growth and the regularity with which residents would be required to choose between the available travel modes. The greater the number of reasons or combination of reasons that household members have to leave a settlement for economic, educational reasons or other purposes (i.e. leisure or shopping), the more likely it is that the private vehicle will present itself as a more convenient option, particularly in rural areas. I find the frequency of public transport services to be relatively constrained in this context. The distance to other larger settlements for access to these facilities by car is also a relevant consideration. Taking these factors together, notwithstanding the ability to promote non-car modes by way of a Travel Plan, I find that the additional future residents that would be generated by the appeal scheme would be predominantly reliant on cars. This would result in a clear and demonstrable harm relative to the sizeable quantum of development proposed in this case.
24. Though financial contributions secured through a S106 agreement may be able to expand capacity to accommodate additional demands where necessary, it is clear that up to a further 85 dwellings beyond the cumulative growth envisaged or permitted would substantially exceed the limited growth anticipated for the village under the eLP to that more comparable with a local centre. In my view, the appeal scheme would result in a disproportionate and accelerated expansion of the village which would undermine its sense of scale and community resilience, whilst clearly also necessitating many residents to make many vehicular trips beyond the village for everyday facilities and services.
25. With regard to the eLP, it is not the Council's case that the appeal scheme would prejudice the plan-making process taken as a whole in the context of paragraph 50 of the Framework. I do not disagree with this view and the development is not premature in the context of the eLP taken as a whole. However, for the foregoing reasons, the proposal for up to 85 dwellings clearly conflicts with the eLP as expressed through draft policies SP01, SP03, SP06 and SD18. For similar reasons, the proposal would conflict with the objectives of the Framework in

relation to contributing to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner and actively managing patterns of growth through limiting the need to travel and offering a genuine choice of transport modes.

26. The Council's refusal reason refers to eLP policy SE06 in relation to town centre hierarchies but I do not consider this policy strictly relevant to the appeal scheme.

Character and appearance

27. Feniton sits in a natural bowl between higher ground to the west and east, and shallower rising slopes extending north and south from the village. The higher ground to the west is the rounded hill known locally as Long Park Hill which has a copse at its summit and forms part of the setting of the village. The appeal site represents a site of some approximate 5.4ha which lies on the lower slopes of Long Park Hill.
28. The appeal slopes from west to east from a high point of around 82m above ordnance datum (AOD). It is currently a large agricultural field forming part of the rolling green hinterland surrounding the village. A small pumping station building sits adjacent to the eastern boundary close to an existing point of access.
29. There are a couple of dwellings and equestrian development to the south of the appeal site which through siting, distance and the openness of some of the grazing paddocks, read slightly separately of the consolidated built form of the village. Adjoining the northern boundary are a couple of dwellings which form a part of the built form of the village clustered around the pub and train station. To the far west of the appeal site is an impressive, detached farmhouse (Long Park Farm) and its related buildings.
30. The surrounding area reflects key characteristics of the relevant *Landscape Character Type 3E – Lowland Plains* as identified in the *East Devon and Blackdown Hills Landscape Character Assessment (2019)*, including mixed farmland with medium to large regular field patterns, small woodland blocks, orchard planting, dispersed settlement with isolated farms and a strong relationship with surrounding higher ground. Long Park Hill is also noted as a locally distinctive feature within the same.
31. Despite the existence of the dwellings and development on the periphery of the site, its character is not particularly influenced by them. The site is clearly rural and relatively open rather than enclosed and, at 5.4ha, is of a sizeable scale. The exposure is increased for the westerly parts of the site which rise up towards Long Park Hill as noted in the Council's Site Assessment and Summary⁴.
32. In my view, despite the absence of a 'Valued Landscape' designation under the terms of Framework paragraph 187, the character and value fabric of the site has been understated in the appellant's evidence. This is in part because the site's topography and part of the rising land to the locally distinctive Long Park Farm make a greater contribution than has been acknowledged. The development of the substantial scale proposed would mark a significantly urbanising expanse on this rising, open ground and even if it would leave the trees and hedgerows intact, it would still substantially harm the landscape character of the area.

⁴ Council's Statement appendix 8, page 39

33. Having visited the viewpoints (VPs) in the appellant's evidence, it is clear that there would be more restricted visibility from the west due to local topography and intervening landscape features (VPs 5, 6 and 7). As such, I do not disagree with the medium or moderate degree of harmful visual effect from these viewpoints at year 15. The effects on pedestrian and cyclist receptors accessing the area for recreational purposes at the junction of Green Lane and Ottery Road (approximately VP2) would be major adverse in a similar manner to VPs 3 and 4 which are situated along Ottery Road. I do not dispute the findings in relation to the more distant VPs 8 and 9.
34. The effect on receptors on the public right of way (PRoW) Footpath 1 to the extending south from Green Lane do not appear to have been assessed. In my view, these too would be major adverse at year 1, without much filtering of views by topography or intervening features. It is suggested that the wider countryside is experienced from existing PRoWs and that the appeal site does not form a key scenic focus. However, from this particular PRoW, the site is a fairly sizeable component of the visible landscape owing to its size and the way that its slope faces towards receptors. It is a clear component of a locally important rural backdrop that would be greatly harmed by the development.
35. Whilst I do not consider that the development would fully coalesce with Long Park Farm, it would inevitably reduce the sense of it having an isolated and commanding position in relation to the settlement. Some separation would remain and Long Park Farm would still be elevated above the roof heights of any dwellings built around the 80m AOD contour or lower, but its foreground would be an urban form of development rather than a sweep of agricultural land.
36. The proposal seeks to include additional structural planting and buffers to strengthen and complement the retained and enhanced boundary trees and hedgerows. However, there is relatively limited existing tree cover and any such planting would take a reasonable time to mature. Even assuming a 15 year passage of time and a reasonably successful establishment of the aforementioned landscaping measures, the harmful adverse effects would still be major for viewpoints along Ottery Road and along Footpath 1.
37. I accept that there is an inevitability of harm when a residential development occurs on a greenfield site. The effects from developing this particular site would be relatively geographically localised but owing to the topography and open qualities of the site and the scale and nature of the development, those effects would not be particularly limited. Having considered the site and the sites of the other development commitments in the area (i.e. Burlands Mead, Beechwood and Colestocks Road), the appeal site provides the greatest contribution to the landscape and visual quality of the area and the number of receptors that would experience the change would not be insignificant in number. This view is corroborated in part for at least the Beechwood and Burlands Mead sites by the Council's findings that the appeal site represents a more sensitive option than others in Feniton which has ultimately informed their selection as preferred options.
38. Notwithstanding that the proposal may incorporate fewer dwellings than have been previously considered and in a more landscape-orientated arrangement, the development would still seriously harm the character and appearance of the area. It would therefore conflict with Strategies 7 and 46 and Policy D1 of the Local Plan

and policies H3 and E1 of the FNP. These policies seek to protect important landscape characteristics, prominent topographical features, rural character and requires development to avoid adverse impacts on those defining qualities.

39. For similar reasons, the proposal also conflicts with draft policy DS01 of the eLP which seeks to ensure development respects the key characteristics and special qualities of the area in which the development is proposed.

Planning Obligations

40. The submitted unilateral undertaking (UU) dated 18 December 2025, made pursuant to s106 of the Town and Country Planning Act 1990, provides for:
- 50% affordable housing with a split of 70% social/affordable rent and 30% shared ownership tenures;
 - Provision of on-site public open space with related management measures;
 - A habitats mitigation contribution to offset the impacts of the development on the East Devon Heaths Special Protection Area and the East Devon Pebblebed Heaths Special Area of Conservation.
 - Secondary education transport contribution to get pupils to outlying secondary schools;
 - Biodiversity net gain (BNG) provisions and relating monitoring measures;
 - Travel plan obligations; and
 - Details concerning the provision of the community eco-hut, such as its definition as a single storey building/structure (with a gross internal area of up to 45sqm) offering flexible community space to promote climate awareness and social inclusion to be provided prior to occupation of seventy five percent of the development and management provisions relating to the same.
41. Regulation 122 of the Community Infrastructure Levy Regulations (2010) (CIL Regulations), as amended, and the Framework (paragraph 58) set out that planning obligations must only be sought where they meet the relevant tests, including 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 same. The necessity for the various components of the S106 and the methods of calculation for the various financial contributions and the related links to policies of the development plan is outlined in the evidence.
42. I am satisfied that all of the components of the UU would be necessary, directly related, and fairly and reasonably related in scale and kind to the development or are either intended to be taken into consideration as a proportionate benefit of the scheme. As such, the measures in the UU can be taken into consideration as part of the overall planning balance.

East Devon Heaths Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC)

43. The SPA is designated under the Conservation of Habitats and Species Regulations 2017 (as amended) (*Habitats Regulations*) for its populations of breeding Dartford Warbler (*Sylvia undata*); and breeding Nightjar (*Caprimulgus europaeus*). The SAC is designated for its northern Atlantic wet heath habitats with

Erica tetralix; and European dry heath habitats. The SAC supports the Southern damselfly although they are not a primary reason for selection.

44. The conservation objectives of the SPA include the need to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of qualifying natural habitats and structure and function of the habitats of the qualifying feature. The conservation objectives of the SAC include the need to ensure that the site contributes to achieving the favourable conservation status of its qualifying features and the populations of qualifying species by maintaining or restoring the extent, distribution and structure and function of qualifying natural habitats and habitats of qualifying species.
45. The scheme is not directly necessary for the management of the SPA or SAC, however, there is the potential for the proposal to cause likely significant effects through additional recreational disturbance when taken in combination with other similar schemes. This is the only impact pathway relative to the scale, nature and location of the development. As such, an appropriate assessment under the Habitats Regulations is necessary.
46. The appellant has agreed to opt into a strategic solution offered by the Council to mitigate the impacts of their development on the SPA and SAC in the form of *The South-East Devon European Sites Mitigation Strategy (2014)* (the Strategy). This would take the form of financial contributions to help pay for the mitigation measures set out in the Strategy. The Strategy details mitigation measures (on-site e.g. rangers and signage) along with costings for these measures. The cost of the strategic mitigation contribution has been calculated at £196.81 per dwelling.
47. As the contributions towards the Strategy have been secured via the UU, the integrity of the SPA and SAC will be maintained. As the competent authority for the purposes of the Habitats Regulations, I conclude that there will not be adverse effects on the integrity of the SAC or SPA alone or in-combination with other proposals or projects.

Other Considerations

48. The appeal site lies within the 'New Feniton Critical Drainage Area' (CDA) but has been found not to be at risk of flooding itself. The submitted details also indicate that the design approach to drainage will comply with the CDA 'Minimum Drainage Standards' and will offer betterment to the downstream catchment by offsetting the future impacts of climate change, reducing the peak rates of surface water runoff and reducing flood risk overall. I return to this in the planning below.

Planning Balance

49. Insofar as the proposal comprises a sizeable greenfield development outside of the BUAB for Feniton which has limited facilities and is located where reliance on the private vehicle for most residents is a likely outcome, it conflicts with the current development plan. This is a significant harm which weighs against the scheme. There would also be harm to the character and appearance of the area relative to the scale of the scheme which, despite the absence of a valued landscape or other higher status designation, is a serious harm.

50. It is not in dispute between the parties that the Council's current housing land supply position is around the 3.5 year mark compared to the Framework's minimum requirement of a 5 year supply with relevant buffer. On the evidence before me, the related shortfall in supply is around 1,746 dwellings⁵. As a consequence, the provisions of paragraph 11 d) of the Framework are engaged for decision making purposes and I reduce the weight to the policies of the development plan, including the FNP, that limit development to BUABs, specifically limit development within service villages such as Feniton and require a balanced approach to the growth of communities.
51. There are no flood risk, SAC or SPA issues that represent strong reasons for refusal under footnote 7 and paragraph 11 d) of the Framework.
52. At the time of the decision on the Colestocks Road scheme for up to 86 dwellings, the Regulation 19 consultation on the eLP had not been commenced, far less concluded, and the submission of the eLP for examination was not so imminent. The constraints that apply to the wider East Devon district have also been brought to my attention by the appellant. These wider issues will be considered more thoroughly at the examination for the eLP and in the preparation of a plan to follow shortly thereafter. I do not dispute that the appeal scheme could help avoid a proportionate amount of development on those more highly constrained areas. However, this is very far from a conclusion that there are limited other options for growth or that if all of the other available options, including the appeal scheme, are needed, that they are all needed all at once, without delay and without regard to the proportionality of scale relative to host settlements, their available employment opportunities and range of facilities. The process of plan making has a clear role to play in creating genuinely sustainable communities and it is for this reason that I attribute limited-modest weight to the conflict with the policies of the eLP as well.
53. The uncertainty on delivery that prevailed at the time of the Colestocks Road decision has reduced in the intervening period and the Colestocks Road scheme itself has provided a buffer of almost double the planned 'limited' growth to provide choice and competition. It was also reasoned in the Colestocks Road decision that the shortfall in the housing land supply was expected to worsen in the absence of a new Local Plan. However, the reality is the opposite. Despite the eLP not yet having progressed to adoption, the shortfall in supply has since decreased from a range of between 2,313 and 2,922 dwellings⁶ then to around 1,746 dwellings now. This shows that the shortfall has materially reduced even if it is likely that it will persist at some level until at least adoption of the eLP.
54. Turning to the benefits, the main benefit of the scheme is the delivery of housing in the order of 85 dwellings in the context of a current housing shortfall of at least 1,746 dwellings which is still a serious shortfall. Another key benefit is the 50% provision of affordable housing of mixed tenures which would go towards meeting an identified local need for such. Each of these benefits attracts substantial weight in favour of the scheme.
55. There would be economic benefits associated with the scheme. The submitted Economic Benefits Infographic indicates that the scheme would directly support 45 jobs throughout the construction period and significant related investment and wider job creation. Thereafter, residents would also indirectly support additional

⁵ Housing Monitoring Update Up to 31 March 2025

⁶ Paragraph 86 of appeal decision

jobs in the wider local economy on expenditure such as through furnishing homes, general retail and leisure expenditure. Despite these types of benefits not being entirely unique to the appeal scheme, these construction and operational phase benefits attract great weight.

56. The provision of around 3ha of public open space is a positive aspect of the scheme and together with the provision of a community Eco-Hut are aspects that each attract modest weight.
57. There would be biodiversity enhancements, through both the provision of levels exceeding statutory BNG and through deliberate habitat creation, including through landscaping measures. These are aspects which attract modest weight as benefits of the scheme.
58. The reduction in surface water flood risk downstream of the site is also an aspect which weighs in favour of the scheme.
59. Where the agreed conditions or provisions of the UU could offset any harms from the development, these weigh neither for, nor against the proposal.
60. Under Framework paragraph 11 d) ii), consideration must be given to whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Having given due regard to these matters, I consider that when taken together, the adverse impacts of granting permission would significantly and demonstrably outweigh the totality of the benefits outlined above.
61. As a consequence, the presumption in favour of sustainable development does not indicate that a decision should be made other than in strict accordance with the development plan when taken as a whole. Returning to the ordinary balance, the considerations advanced in favour of the scheme, including the range of identified benefits, do not outweigh the conflict with the development plan when taken as a whole such as to indicate that a decision should be made other than in accordance therewith.

Other Matters

62. Whilst I note the issues concerning the absence of agreement on the Local Housing Allowance definition in the submitted UU, this is not a decisive reason as the appeal is failing for other reasons in any event.

Conclusion

63. For the foregoing reasons, the appeal should be dismissed.

H Nicholls

INSPECTOR



Appeal Decision

Site visit made on 18 March 2026

by **R Cahalane BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 April 2026

Appeal Ref: 6002857

1 Broad Street, Ottery St Mary, Devon EX11 1BR

- 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 Maddicks (Redferns Holding Ltd) against the decision of East Devon District Council.
- The application Ref is 25/0839/FUL.
- The development proposed is part change of use of ground floor, with shop remaining, and change of use of first floor from offices to two storey dwelling.

Decision

1. The appeal is allowed and planning permission is granted for part change of use of ground floor, with shop remaining, and change of use of first floor from offices to two storey dwelling at 1 Broad Street, Ottery St Mary, Devon EX11 1BR in accordance with the terms of the application, Ref 25/0839/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the above banner heading, I have adapted the description of development from the application form. I have however deleted reference to “Revised application of 24/1817/FUL” as it is superfluous detail.
3. The appeal submission includes two documents titled “Flood Warning & Evacuation Plan”¹ (FWEP) and “Household Flood Plan” (HFP). I have accepted this additional technical information for consideration, as it does not lead to a material change to the appeal scheme, and would thus not prejudice interested parties.

Main Issue

4. The main issue is whether future occupiers of the proposed dwelling would be adequately safe from flooding over the lifetime of the development.

Reasons

5. The appeal site comprises a mid-terraced two-storey building within Ottery St Mary town centre. The main parties do not dispute that the proposal site lies within Flood Zones 2 and 3. It is therefore categorised as having a medium-high probability of fluvial flooding, which translates to up to a 1:100 annual probability of river flooding or more. The evidence before me indicates that direct risk of other forms of flooding at the site is low.

¹ Document Ref: FWEP-R01, dated November 2025

6. Policy EN21 of the East Devon Local Plan 2013 to 2031 (EDLP) (adopted 2016) governs river flooding. It states that a sequential approach will be taken to considering whether new developments will be permitted in areas subject to river flooding. However, the sequential approach as outlined in this policy explicitly excludes changes of use such as that proposed, and this is also reflected in paragraph 176 of the National Planning Policy Framework (the Framework). The sequential test is therefore not required in this instance. There is thus no conflict with EDLP Policy EN21 in this respect.
7. A change of use from commercial space to a dwelling would nonetheless increase the flood risk vulnerability classification from less vulnerable to more vulnerable, as set out in Annex 3 of the Framework. Paragraph 181 of the Framework sets out that development should only be allowed in areas at risk of flooding where, in the light of a site-specific flood risk assessment it can be demonstrated that:
 - a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
8. Following my site visit, I have no reason to dispute the finished floor levels (FFL) annotated on the existing floor plans before me. I am also satisfied that the FFLs cannot be raised due to the existing ceiling heights. The ground floor is split level, and the proposed lounge and dining room would be on the higher level, with the smaller and narrower kitchen area on the lower level. The bedroom, study room and bathroom would be on the first floor. The most vulnerable areas of the proposed dwelling are thus located in the lowest flood risk area in terms of FFLs.
9. The submitted Flood Risk Assessment (FRA) commissioned by the appellant identifies that the part of the proposed dwelling at lower ground floor level would remain subject to internal flooding during its design lifetime. The FRA assumes a development lifespan of 100 years, which I consider reasonable for a residential use. It also makes reference to climate change allowance in terms of anticipated peak rainfall and river flow, which appears to accord with government guidance².
10. The FRA demonstrates that the design flood level over the development's lifetime would be 0.27m higher than the lower ground floor FFL, but would 0.2m lower than the upper ground floor FFL. This means that the lower ground floor level containing the kitchen would be subject to flooding of 0.27m depth. I do not view such a flood depth within a relatively small kitchen area as amounting to a significant hazard. Safe refuge would be possible on the upper ground floor level and the first floor.

² Flood risk assessments: climate change allowances

11. A comprehensive package of flood resistance and resilience measures are proposed. This includes use of water resilient materials for the kitchen fittings, waterproofing to 0.6m above the FRA predicted flood water levels, raised electrical and gas installations above these flood water levels, and the installation of self-closing air bricks and flood boards or gates on the accesses. Subject to implementation of these measures, the proposed dwelling would be appropriately flood resistant and resilient such that in the event of a flood, it could be quickly brought back into use without significant refurbishment.
12. The proposed dwelling would connect to the main sewer using the existing drainage system. No sustainable drainage system is proposed. The FRA however advises that the proposal site is not within a recognised critical drainage area, which the Council has not disputed. There would also be no decrease in permeable surface area. Given the above along with the size of the proposal involving conversion of an office building, the lack of a sustainable drainage system does not amount to demonstrable harm to justify dismissing the appeal.
13. As set out in the FWEP, the shortest escape route from the front door of the proposed dwelling to beyond both Flood Zones 2 and 3 is towards the Mill Street and Broad Street junction. This route has a short distance of 27.5m and runs slightly uphill via a footway. An initial part of this route is subject to a maximum flood depth of 0.3m as set out in the FRA. However, I did not observe any significant physical hazards such as drain covers, manholes or high kerbstones. Given this along with the short distance involved, I view this as a sufficiently safe access and escape route.
14. The FWEP and HFP provide the relevant contact details and procedures to prepare for, to respond to and recover from a flood event. A sign within the dwelling could advise occupiers to evacuate towards Broad Street and Mill Street, and not Hind Street which is subject to higher flood depths. Subject to compliance with all measures outlined within the FRA, FWEP and HFP, residual risk would be safely managed. I am satisfied that all abovementioned flood resistance and resilience measures and appropriate alert and warning systems can be secured by means of condition, to avoid placing future occupants at unacceptable risk from flooding.
15. For the above reasons, I conclude that future occupiers of the proposed dwelling would be adequately safe from flooding over the lifetime of the development. In this respect, I have found no conflict with the development plan or the Framework.

Other Matter

16. The site is within the Ottery St Mary Conservation Area (OSMCA), which covers a significant amount of the town and its environs. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
17. From what I have seen and read, the significance of the OSMCA as a designated heritage asset is derived from its historic core with its medieval origins and layout, a variety of historic town houses, many of which have a direct street frontage, and some good quality traditional shopfronts. The appeal site contributes to the significance of the OSMCA in these respects, although the windows and doors subject of the proposal are not of particular historic interest.

18. The proposed alterations visible from public vantage points comprise a replacement front entrance door, and four replacement front elevation timber windows. Subject to conditions to secure precise, detailed and acceptable fenestration details, I am satisfied that there would be no harm to the character, appearance and significance of the OSMCA.

Conditions

19. I have considered the Council's suggested conditions provided without prejudice in the event that I allow the appeal, and the appellant's comments, including their suggested condition in respect of managing flood risk.
20. Condition No 1 is necessary in the interests of planning certainty. I have deleted the suggested reference to "and shall be carried out as approved", as the approved plans are listed for clarity under Condition No 2. For further clarity, I have amended the approved plans dates to reflect those provided on the plans, and I have also added the location plan unique reference. Condition No 3 is necessary in the interests of neighbouring living conditions, and I have amended its wording for further precision.
21. Condition 4 is necessary in the interests of flood risk management and public safety. As I have found the measures as recommended in the FRA, FWEP and HFP already submitted to be acceptable, I have worded this condition as a compliance condition rather than pre-commencement or pre-occupation. For clarity, I have added the FRA and FWEP document references, and have also added reference to the development hereby permitted.
22. Conditions 5 and 6 are necessary in the interests of the character and appearance of the site within the OSMCA. Condition 7 is necessary in the interests of living conditions, the character and appearance of the area, and to facilitate sustainable modes of travel.

Conclusion

23. For the reasons given above, the appeal is allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:

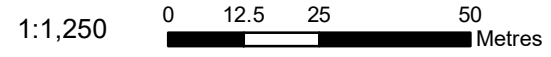
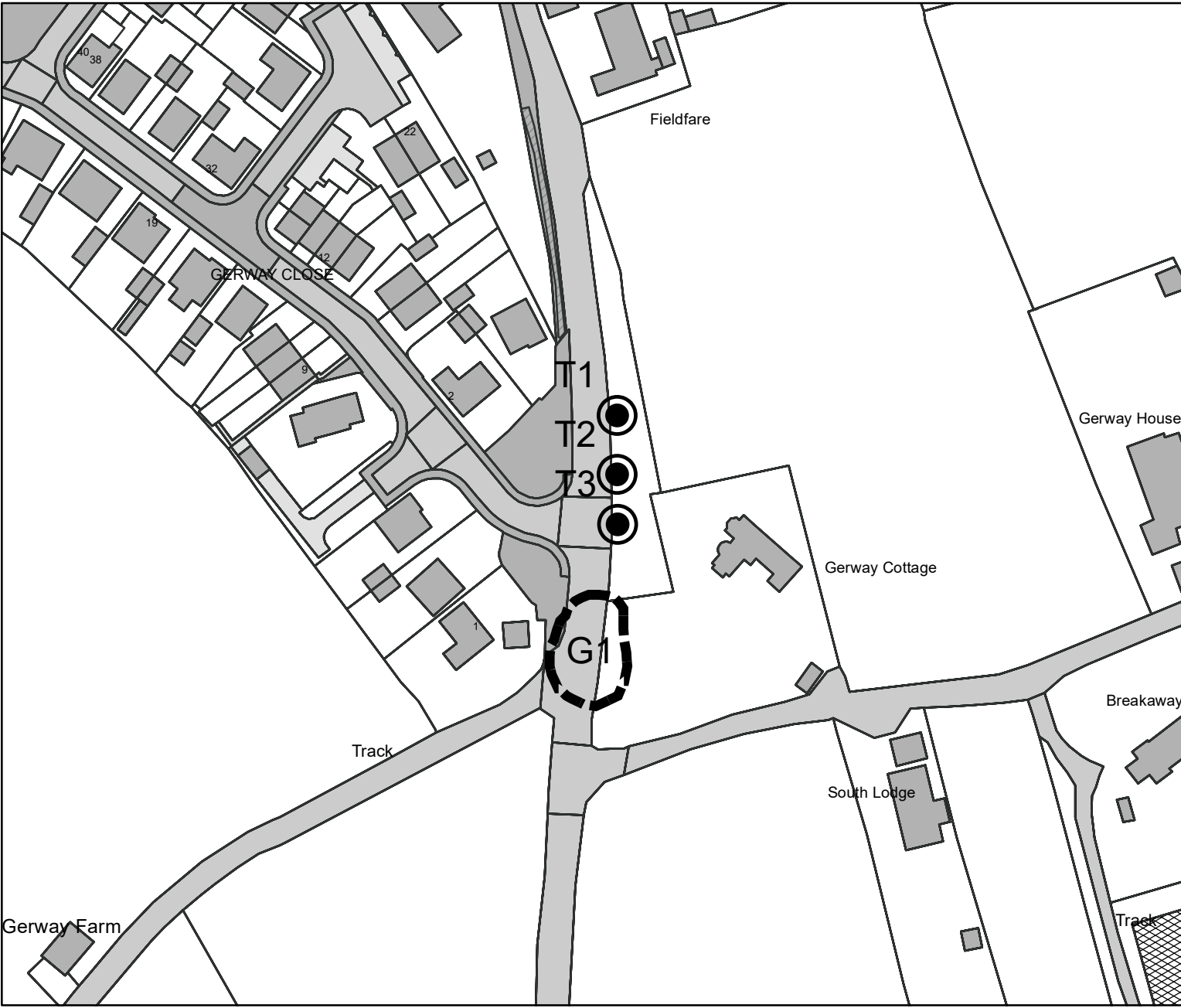
Proposed floor plans (Drawing No. 1424.5.A, dated 18 February 2025); Proposed elevations (Drawing No. 1424.6.A, dated 18 February 2025); Proposed block plan (Drawing No. 1424.7.A, dated 18 February 2025); Location plan (Ref: PP-13929481v1, dated 08 April 2025).
- 3) Construction works shall take place only between 8am to 6pm on Mondays to Fridays and 8am to 1pm on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays. There shall be no burning on site.
- 4) The development hereby permitted shall be carried out, occupied and operated for its lifetime in accordance with the recommendations of the submitted Flood Risk Assessment prepared by Civil Studio dated April 2025 (Document Ref: FRA-R02), Flood Warning & Evacuation Plan (Document Ref: FWEP-R01, dated November 2025), and Household Flood Plan.
- 5) No works to install new windows shall take place until joinery details at 1:5 scale and elevations at 1:20 scale have been submitted to and approved in writing by the Local Planning Authority. New windows shall be timber framed fixed light or side hung casements with a painted finish (colour to be submitted), with mouldings and timber sections simple in design and profile. All double-glazed units shall be slim heritage units with black spacer bars, fixed using putty. Opening casements shall be set flush with the frames with butt hinges and traditional window stays (friction hinges and visible trickle vents shall not be permitted), and all new window frames shall be set back in the reveal as existing and not fitted flush with the external wall. The works shall then be carried out in complete accordance with the approved details and retained thereafter.
- 6) Notwithstanding the information submitted, the new external entrance door on the north-east elevation of the development hereby permitted shall be of a timber vertical boarded construction with a painted finish (colour to be submitted), and shall be set back in the reveal as existing and not fitted flush with the external wall. No works to install the new door shall take place until elevation drawings (at 1:20 scale) and section drawings (at 1:5 scale) have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in complete accordance with the approved details and retained thereafter.
- 7) Prior to occupation of the dwelling hereby permitted the cycle and bin storage facilities indicated on the proposed ground floor plan (Drawing No. 1424.5.a.) shall be provided. These facilities shall thereafter be permanently retained and maintained for those purposes.

*****End of Schedule*****





East Devon District Council Tree Preservation Order 25/0061/TPO

Modification: The provisional TPO category shown as an Area has been amended to an individual Tree and Group categories, to better reflect the composition and the amenity value of on-site trees worthy of protection.


Land adj. Sunnyland Cottage, Ottery St Mary



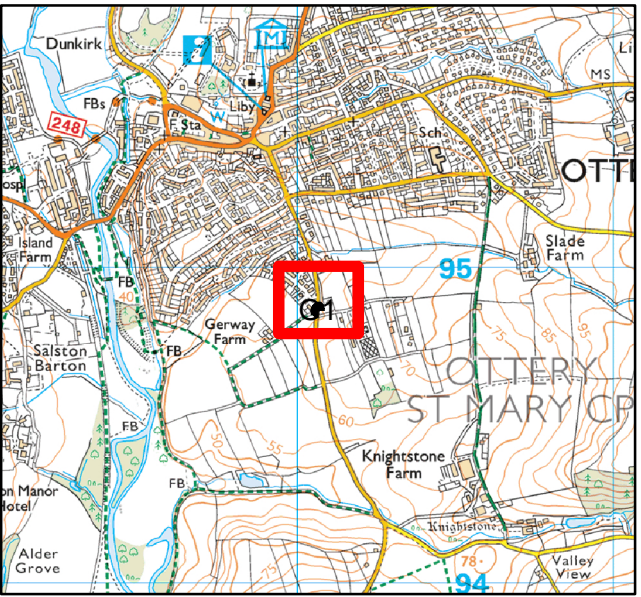
Key

-  Tree
-  Area
-  Group
-  Wood

Authorised Signature



07 May 2026



TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (England) REGULATIONS 2012

**Town and Country Planning Act 1990
TREE PRESERVATION ORDER (NO. 25/0061/TPO)**

East Devon District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the Tree Preservation Order No. 25/0061/TPO, "Land adj. Sunnyland Cottage, Ottery St Mary", 11th December 2025.

Interpretation

2.— (1) In this Order “the authority” means East Devon District Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3.— (1) **Subject to article 4**, this Order shall take effect provisionally on 11th December 2025.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

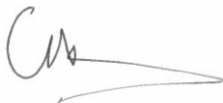
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated 11 December 2025

Signed on behalf of East Devon District Council



.....
Authorised by the Council to sign in that behalf

[CONFIRMATION OF ORDER

This Order was confirmed by East Devon District Council without modification on day of

.....

OR

This Order was confirmed by East Devon District Council on ...6th... day of ...May... ...2026... subject to the following modification(s):

The provisional TPO category shown as an Area has been amended to an individual Tree and Group categories, to better reflect the composition and the amenity value of on-site trees worthy of protection.



.....
Authorised by the Council to sign in that behalf]

~~**[DECISION NOT TO CONFIRM ORDER**~~

~~A decision not to confirm this Order was taken by East Devon District Council on day of~~

~~.....~~

~~.....
Authorised by the Council to sign in that behalf]~~

[VARIATION OF ORDER

This Order was varied by East Devon District Council on day of

under the reference number

.....
Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

This Order was revoked by East Devon District Council on day of

.....
Authorised by the Council to sign in that behalf]

SCHEDULE
SPECIFICATION OF TREES

TREE PRESERVATION ORDER NO. 25/0061/TPO

LAND ADJ. SUNNYLAND COTTAGE, OTTERY ST MARY

REF. ON MAP	DESCRIPTION	SITUATION
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TREES SPECIFIED INDIVIDUALLY

(Encircled in a solid black line on map)

T1	Beech	Centred on grid ref: (E) 310072 (N) 094915
T2	Beech	Centred on grid ref: (E) 310072 (N) 094903
T3	Spruce	Centred on grid ref: (E) 310072 (N) 094892

TREES SPECIFIED BY REFERENCE TO AN AREA

(Shown within a dotted black line on map)

GROUP OF TREES

(Shown within a broken black line on map)

G1	x4 (four) Beech (former hedgerow coppice)	Centred on grid ref: (E) 310066 (N) 094864
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WOODLAND

(Shown within a continuous black line on map)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, substantially revoke and replace the Town and Country Planning (Trees) Regulations 1999, to the extent to which they apply to England. They also revoke the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No. 2) (England) Regulations 2008.

Part 2 prescribes the form of tree preservation orders and the procedure for their making, provisional effect, confirmation, variation and revocation. The prescribed form is set out in the Schedule to the Regulations.

Part 3 of the Regulations sets out prohibited activities in relation to a tree protected by an order and exceptions. Under regulation 13 a tree protected by a tree preservation order may not be cut down, topped, lopped, uprooted or wilfully damaged or destroyed without the consent of the local planning authority, unless an exception applies. These exceptions are set out in sections 198(7) and 200(1) of the Town and Country Planning Act 1990, and in regulation 14 of the Regulations.

Section 198(7) provides exceptions relevant to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Coal Act 1958 (c. 69) on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

Section 200(1) provides that a tree preservation order does not have effect in respect of anything done by or on behalf of Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision or anything done by or on behalf of any other person under a plan of works approved by the Forestry Commissioners under a forestry dedication covenant (as defined in section 5 of the Forestry Act 1967) or under conditions of a grant or loan made under section 1 of the Forestry Act 1979 (c. 21).

Regulation 14 contains exceptions to the requirement for consent and regulation 15 contains exceptions for trees in conservation areas.

Part 4 of the Regulations prescribes the procedure for applications for consent under tree preservation orders.

Part 5 prescribes the procedure for appeals and for their determination. Regulation 19 grants a right of appeal in respect of a refusal to grant consent, a grant of consent subject to conditions or a failure to determine an application for consent within the prescribed time period.

In Part 6, regulation 24 provides for compensation claims, subject to exceptions, to be made where loss or damage has been incurred as a consequence of a refusal to grant consent, a grant of consent subject to conditions or a refusal of approval required under a condition.

Part 7 contains miscellaneous provisions. Regulation 25 provides that the prescribed time for the purposes of sections 206(1)(b) (replacement trees) and 213(1)(b) (enforcement of controls as respects trees in conservation areas) is whenever the cutting down or uprooting of a tree is authorised only by virtue of regulations 14(1)(a)(i) or 14(1)(c) (dead or dangerous trees).

Regulation 26 revokes the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No.2) (England) Regulations 2008, subject to transitional, transitory and saving provisions in respect of certain classes of order. This regulation also saves regulation 17 of the Town and Country Planning (Trees) Regulations 1999 (amendment to the Town and Country Planning General Regulations 1992).

Under section 193 of the Planning Act 2008 (c. 29), all tree preservation orders made prior to the date on which these Regulations come into force take effect with the omission of all of their provisions other than any that identify the order or identify the trees, groups of trees or woodlands to which the order applies.

A full impact assessment of the effect that this instrument will have on the costs of business, charities and the voluntary sector has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. The assessment may also be accessed at www.communities.gsi.gov.uk.