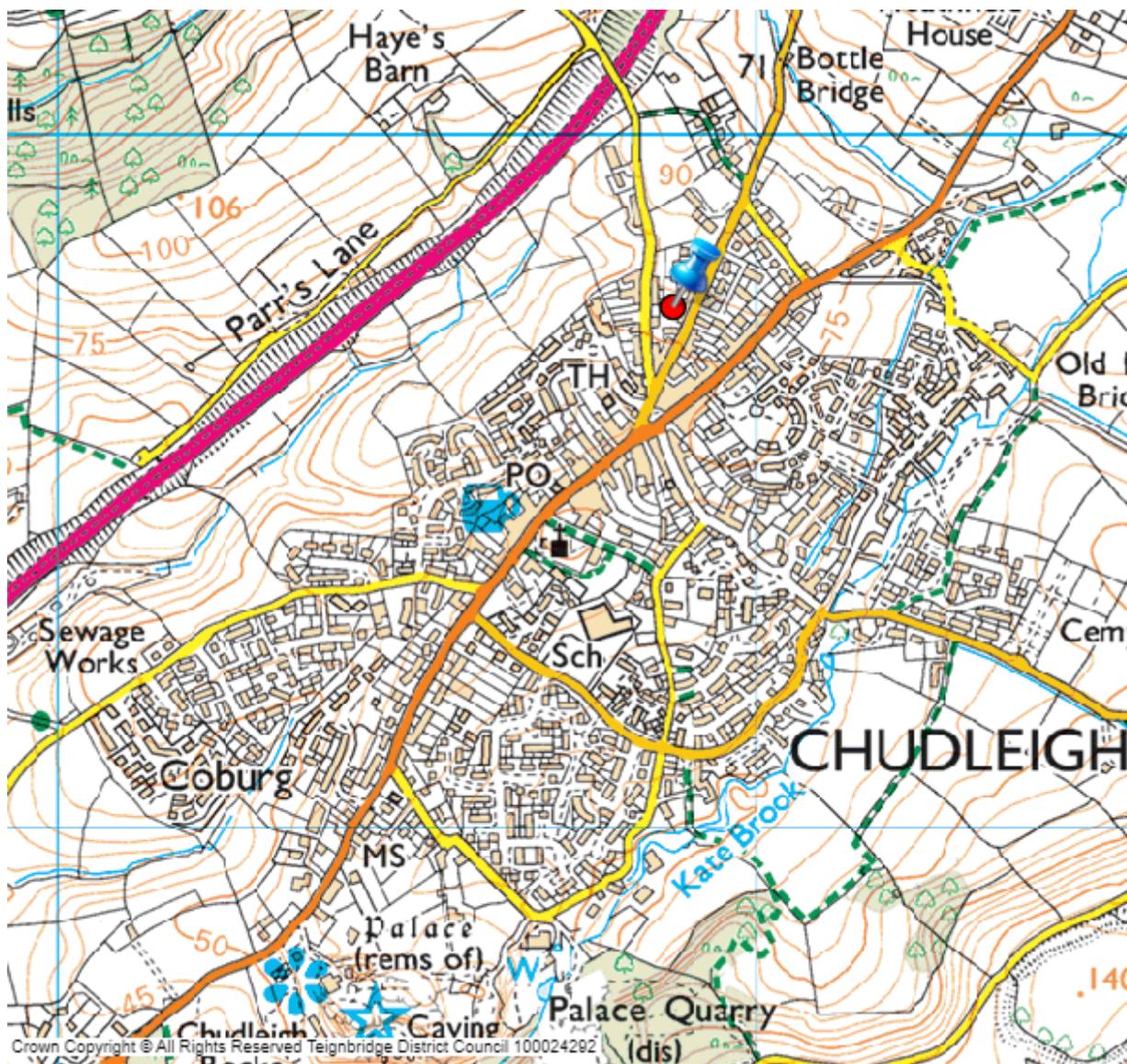
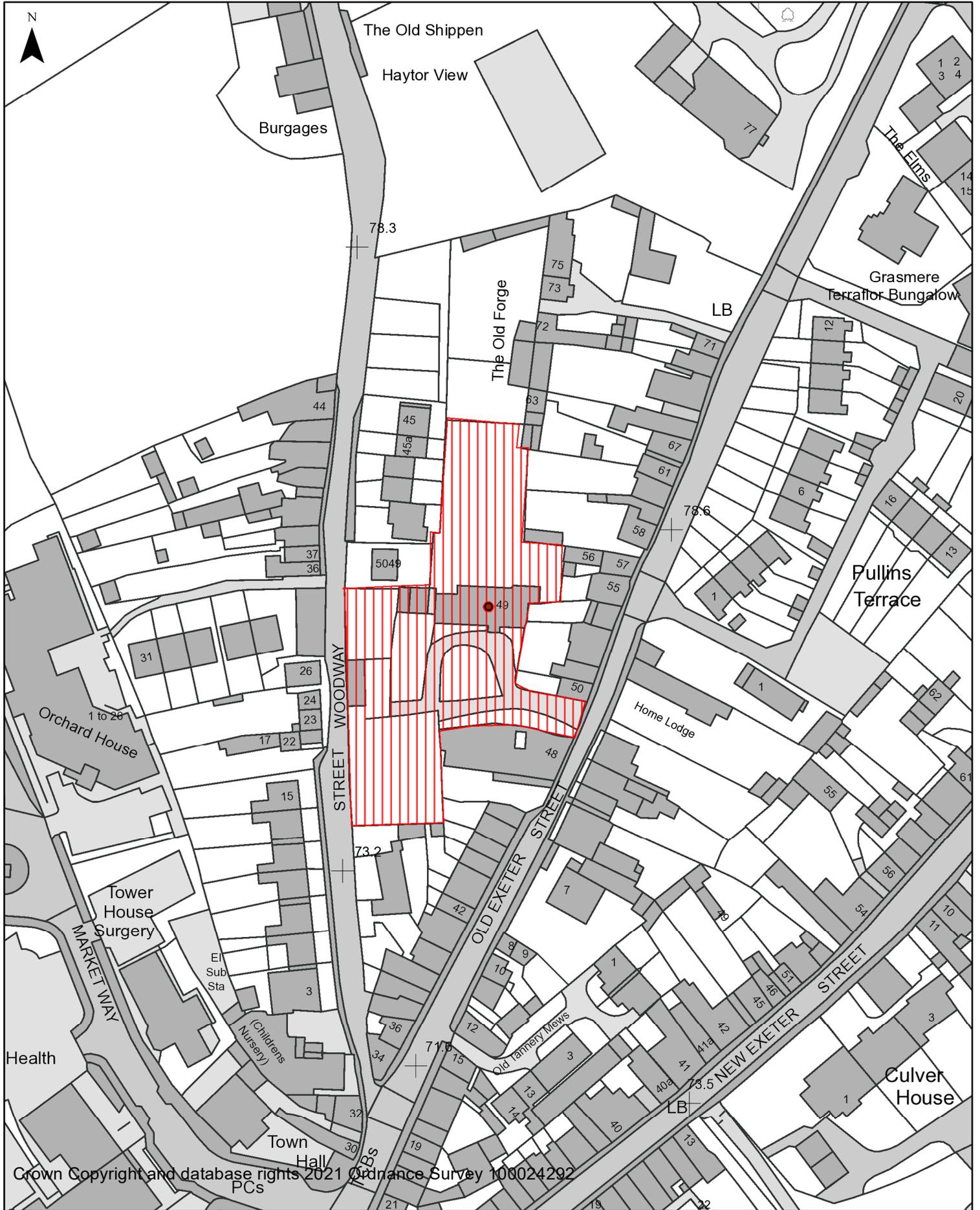


PLANNING COMMITTEE REPORT  
17 August 2021  
CHAIRMAN: Cllr Mike Haines



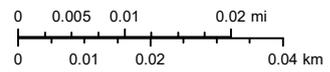
APPLICATION FOR CONSIDERATION:	CHUDLEIGH - 20/02181/FUL - 49 Old Exeter Street, Chudleigh - Dwelling	
APPLICANT:	Mr & Mrs M Sanders	
CASE OFFICER	Jeff Penfold	
WARD MEMBERS:	Cllr Lorraine Evans Cllr Richard Keeling	Chudleigh
VIEW PLANNING FILE:	<a href="https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=20/02181/FUL&amp;MN">https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=20/02181/FUL&amp;MN</a>	





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## 1. REASON FOR REPORT

Cllr Keeling has requested committee consideration of the application as he considers the proposal represents a sustainable form of development.

## 2. RECOMMENDATION

Planning Permission be refused for the following reasons:

1. *The proposed dwelling by virtue of its siting within the walled garden and therefore setting of the Grade II Listed Building 'The Retreat', would detract from the significance of the high stone walls of the garden which form part of said listing and form an important and positive element of the setting of the listed building. Further, the proposal would result in an unacceptable level of intensification of the use of the garden and its structures, creating a major deleterious impact upon the listed building and its constituent elements and long-established historic context.*

*As such, the proposal would result in substantial harm to the significance of the Grade II Listed Building and would consequently detract from the character and appearance of the Chudleigh Conservation Area.*

*The proposal fails to accord with LP Policy EN5, Policy CHNDP16 and NPPF Paragraph 201.*

2. *The proposal, by virtue of the first floor balcony element and its proximity to the first floor habitable bedroom of No. 22 Woodway Street being approximately less than 13m distant, is likely to allow for new and direct lines of sight giving rise to intervisibility and a loss of privacy to the detriment of the amenity and living conditions of residents at No. 22. As such, the proposal fails to accord with LP Policy WE8.*
3. *The proposal, by virtue of the proposed apex glazing within the rear projection and side elevation facing Woodway Street, coupled with the proposed wholly glazed balcony element is considered likely to give rise to an unnecessary and avoidable amount of light spill which is likely give rise to significant, detrimental visual impacts, particularly when viewed from the street scene along Woodway Street. As such, the proposal fails to accord with LP Policies S2, EN2A, EN5 and WE8 and CHNDP5.*

## 3. DESCRIPTION

### The Site

- 3.1. The application site is located to the west side of Old Exeter Road and the east side of Woodway Street and comprises a detached house and curtilage barn sited within an old partially walled garden.
- 3.2. The site contained a number of trees and shrubs and takes access onto Old Exeter Street. 49 Old Exeter Street is Grade II listed and lies in the Chudleigh Conservation Area, in which this site is described as being outstanding in its contribution to the Conservation Area.

- 3.3. The listed house consists of a late 17thC detached dwelling which was updated in the early 1800's thus the Georgian appearance. The existing dwellinghouse consists of painted render with white painted timber Georgian style windows. The roof is clad using natural slate.
- 3.4. The application site is located well within the main built-up area / settlement boundary of Chudleigh, a Bat SAC Landscape Connectivity Zone 2019, a Bat SAC Sustenance Zone 2019, SAC 4Km Sustenance Zone, Wintering Zone and a Great Crested Newt Alert Zone.
- 3.5. The application site also lies within the curtilage of the Grade II Listed Building: 'The Retreat'.
- 3.6. Other Grade II Listed Buildings in close proximity include:
- Glencoe; and
  - Alma House and Railings In Front.
- 3.7. The application site is not located within a Flood Risk Zone as identified by the Environment Agency nor a Critical Drainage Area.

## **The Proposal**

- 3.8. The application proposes the erection of 1no. dwelling providing 2no. bedrooms with an open plan kitchen / dining and living room that opens out onto the garden area. The dwelling is proposed to be used in-part as a home office for home working.
- 3.9. The site lies within the walled garden area south of the application site and shall share the existing access provision from Old Exeter Street and provision provided for 2no. car parking spaces.
- 3.10. The proposed materials / finishes include:
- Roof - natural slate & standing seam metal roof
  - Walls - render/ rubble stone with lime mortar
  - Green oak framing
  - Windows/doors - timber flush casement finished in opaque grey
  - Rainwater goods - zinc 1/2 round gutters.

## ***Principle / Sustainable Development:***

- 3.11. Within settlement limits, development will be permitted where it is consistent with the provision and policies of the local plan as set-out in LP Policy S21A.
- 3.12. Chudleigh is identified as a sustainable settlement and the application site is located within close proximity to local services.
- 3.13. As such, the proposal is considered acceptable in principle and therefore accords with LP Policies S21A, EC4 and Policy CHNDP12.

- 3.14. The key considerations in relation to this proposal therefore relate to its heritage impacts and the impact the proposed dwelling would have on surrounding residential amenity.

**The Historic Environment:**

- 3.15. In considering this application and assessing potential impacts of the development proposal against surrounding heritage assets the following policies, principles, guidance and recent case law have been considered:

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), Section 16 of the NPPF (specifically paragraphs 189-202) The National Planning Practice Guidance (NPPG) particularly the Section: Conserving and Enhancing the Historic Environment. The Historic England guidance: The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning: 3.

- 3.16. We are under a statutory duty (ss 66 and 72) to give special regard to the desirability of preserving Listed Buildings or their settings AND to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In addition, the NPPF is a useful directive in how we should deal with applications that cause harm to designated heritage assets.

- 3.17. The council's heritage / conservation officer makes the following comments with regard to this application:

*“I have maintained a heritage objection to this application from pre-app in 2018 onwards – the site is the walled garden of a listed building, the high stone walls of the garden form part of the listing, and the garden enclosed by the walls is an important positive element of the setting of the listed building (including its garden walls).*

*Permission was given in 2019 for the conversion of the little barn / gardener's store immediately to the north of the present application site to ancillary residential accommodation. That was the greatest level of intensification of the use of the garden and its structures that I felt was acceptable without harm to the significance of the listed building.*

*I have an in-principle objection to the loss of the walled garden to residential development irrespective of the design.*

*The host listed building is large, and realistically needs a large garden to go with it to maintain its value in line with its cost of upkeep. Just because the current occupant doesn't want a large garden doesn't mean the house doesn't need a large garden to ensure a viable economic future”.*

- 3.18. In addition to the above, the planning history is a material consideration when determining planning applications.

- 3.19. As such, it is noted that under Refs: 19/00994/FUL and 19/00995/LBC, the originally submitted applications related to the conversion of an existing barn along the western boundary to the west of the listed house into ancillary accommodation

and sub-division of the planning unit to provide a detached house to the south west corner, in the area of the walled garden.

- 3.20. Following an objection from the council's conservation officer, and case officer's recommendation to refuse, the applicant opted to withdraw the new dwelling from the proposal and progress only with the conversion of the existing barn to an ancillary use – for which permission was granted.
- 3.21. The council's concerns over the introduction of a new dwelling in this location is noted as being communicated before the aforementioned discussions under Refs: 19/00994/FUL and 19/00995/LBC and as part of pre-application advice Ref: 18/01014/PE of May 2018:

*“The dwelling – any dwelling – would obliterate the historical relationship between the principal residence, the formal carriage access and circulatory front drive, and the walled garden certainly present by the time of the First Edition County Series Survey in the 1880s”.*

- 3.22. Whilst the current revisions to the proposed dwelling are noted in terms of its efforts to address the previous and significant concerns raised over a number of years and by numerous officers, the previous concerns and in-principle objections raised by the council's heritage / conservation / planning officers still remain relevant in that the erection of a new dwelling in this location remains unacceptable.
- 3.23. As such, the proposed dwelling by virtue of its siting within the walled garden and therefore setting of the Grade II Listed Building 'The Retreat', would detract from the significance of the high stone walls of the garden which form part of said listing and form an important and positive element of the setting of the listed building.
- 3.24. Further, the proposal would result in an unacceptable level of intensification of the use of the garden and its structures, creating a major deleterious impact upon the listed building and its constituent elements and long-established historic context.
- 3.25. As such, the proposal would result in **substantial harm** to the significance of the Grade II Listed Building and consequently detract from the character and appearance of the Chudleigh Conservation Area.

- 3.26. Where substantial harm is caused by a proposal, the National Planning Policy Framework states at paragraph 201 that:

*“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent...”*

- 3.27. On balance, whilst some very limited public benefits can be attributed to the introduction of 1no. dwelling in this sustainable location, the resultant harm upon the significance of the Grade II Listed Building is considered to outweigh any such benefits. As such, the proposal fails to accord with LP Policy EN5, Policy CHNDP16 and NPPF Paragraph 201.

### ***Neighbouring Amenity:***

- 3.28. The application proposes the erection of a 2-bed property set over two floors providing 4 bedspaces. As such, the proposal constitutes a 2B4P property requiring a minimum of 79sqm of floor space which is comfortably provided for. Both bedrooms provide for a minimum of 11.5sqm of floor space as required for double bedrooms.
- 3.29. The proposed rear balcony element at first floor level serving the master bedroom would introduce new lines of direct sight into the first floor habitable room of the neighbouring property No. 22 Woodway Street.
- 3.30. Whilst it is noted that some natural vegetation provides an element of screening, such a temporary feature cannot be relied upon as a permanent means of mitigation in this instance. The situation is worsened given the ability for residents to walk out onto and use the decking area which reduces the distance of intervisibility (approximately 13m between the balcony and first floor habitable room of No. 22) and potentially exacerbates concerns over residential amenity (noise, loss of privacy).
- 3.31. As such, the proposal by virtue of the first floor balcony element and its proximity to the first floor habitable bedroom of No. 22 Woodway Street being approximately 13m, is likely to allow for new and direct lines of sight giving rise to intervisibility and a loss of privacy to the detriment of the amenity and living conditions of residents at No. 22. As such, the proposal fails to accord with LP Policy WE8.

### ***Design and Visual Impacts:***

- 3.32. When viewed in conjunction with the neighbouring property: 'Rosemount', the proposed dwelling would appear subordinate in size and scale mainly due to the lowered ridge and eaves level as well as the considerate L-shaped design which ensures an acceptable and functional layout within the site's constraints.
- 3.33. When viewed as part of the wider application site, the siting and handing of the proposal would seek to both retain and utilise as much remaining space as possible within the wider courtyard area, effectively avoiding urbanising this scarce area of open space within Chudleigh.
- 3.34. It is somewhat conceded that the bulk of the courtyard area has been developed with only the application site remaining as any respite from built form.
- 3.35. Whilst it is noted that the application site in its current form can be attributed weight in its ability to break up the built form along Old Exeter Road and Woodway Street as well as within the walled garden area - effectively providing a break between buildings - the walled element of the site, along with the considerate positioning of the building ensures that the proposal is accepted within this position and would not likely be overly visible from wider vantage points along Woodway Street and / or Old Exeter Road.
- 3.36. Even if elements of the proposal were to be visible above the walled garden area, they would not be so out of keeping with the urban nature of the immediate vicinity so as to appear incongruous.

- 3.37. Some concern is raised however with elements of the proposal which includes the mix of slate roof tiles and zinc cladding. It would be preferable for the proposal to maintain an original slate roof across the entirety of the proposal, particularly given the zinc cladding element would likely be visible for the street scene. It is felt that the mix palette of materials of the proposal and Rosemount would likely detract from the character and appearance of the Chudleigh Conservation Area.
- 3.38. It is felt however, that such an issue could be addressed via negotiations or a suitable planning condition and is not sufficient so as to warrant a reason for refusal.
- 3.39. Other concerns include the proposed amount of glazing within the apex of the pitched roof elements both at first and ground floor level on both side and rear elevations.
- 3.40. When coupled with the proposed balcony element the proposed glazing is considered likely to give rise to light spill which may detract from the tranquil nature of this element of the application site as it currently exists. A more harmonious and discreet approach would be considered acceptable as part of any revised application; potentially; sacrificing the apex glazing for the retention of the balcony element and glazing either side.
- 3.41. Whilst some natural screening is in place, it is still considered that the height of said features would protrude above the walled elements enclosing the site and as such, views would still be achieved into the site from Woodway Street.
- 3.42. As such, the proposal, by virtue of the proposed apex glazing within the rear projection and side elevation facing Woodway Street, coupled with the proposed wholly glazed balcony element is considered likely to give rise to an unnecessary and avoidable amount of light spill which is likely give rise to significant, detrimental visual impacts, particularly when viewed from the street scene along Woodway Street. As such, the proposal fails to accord with LP Policies S2, EN2A, EN5 and WE8 and CHNDP5.

***Drainage / Flood Risk:***

- 3.43. The site is within an urban environment and as such, connection to the mains sewer and foul drainage can be provided.
- 3.44. No concerns are raised in respect of flood risk / drainage.
- 3.45. As such, the proposal accords with LP Policy EN4 and Policy CHNDP12.

***Ecology / Biodiversity:***

- 3.46. No concerns are raised in respect of ecology / biodiversity and no objections have been raised by the council's ecologist.
- 3.47. As such, the proposal accords with LP Policies EN8, EN9, EN10 and EN11 and Policies CHNDP9 and CHNDP10.

### **Highway Safety / Access:**

- 3.48. The application site is well-served by an existing access from Old Exeter Road. The proposal shall provide for 2no. car parking space and this is considered acceptable.
- 3.49. As such, the proposal accords with LP Policy S9 and CHNDP4.

### **Trees:**

- 3.50. The council's arboriculturalist raises no concerns with regard to on-site trees.
- 3.51. The proposal accords with LP Policy EN12.

## **4. POLICY DOCUMENTS**

Teignbridge Local Plan 2013-2033

### **STRATEGY POLICIES:**

S1A Presumption in favour of Sustainable Development  
S1 Sustainable Development Criteria  
S2 Quality Development  
S9 Sustainable Transport

### **STRATEGY PLACES:**

S20 Chudleigh  
S21 Villages  
S23 Neighbourhood Plans

### **PROSPEROUS ECONOMY:**

EC4 Working from Home.

### **WELLBEING:**

WE8 – Domestic Extensions, Ancillary Domestic Curtilage Buildings and Boundary Treatments.

### **QUALITY ENVIRONMENT:**

EN2A Landscape Protection and Enhancement  
EN4 Flood Risk  
EN5 Heritage Assets  
EN8 Biodiversity Protection and Enhancement  
EN9 Important Habitats and Features  
EN10 European Wildlife Sites  
EN11 Legally Protected and Priority Species  
EN12 Woodlands, Trees and Hedgerows

### **Chudleigh Neighbourhood Plan Policies ('CHNDP'):**

Policy CHNDP4 – Residential Parking

Policy CHNDP5: Housing Design

Policy CHNDP9: Biodiversity

Policy CHNDP12: Sustainability

Policy CHNDP10: Protection of the South Hams SAC

Policy CHNDP16: Design in the Conservation Area

National Planning Policy Framework

National Planning Practice Guidance.

## **5. CONSULTEES**

**Trees:** *“There are no arboricultural objections to the proposal, as no significant trees will be adversely affected.”*

**DCC Highways:** Standing Advice applies.

**DCC Archaeology:** *“I refer to the above application. The proposed development lies within the historic core of Chudleigh and within the Conservation area.*

*The town itself is first documented in the 12th century, while the application area lies in a part of the town that appears to have been developed in the 18th or 19th centuries.*

*However, the extent of the early settlement is unknown and, as such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the medieval and later settlement in the town.*

*The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.*

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

*If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and with the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:*

*'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.*

**Reason:** *To ensure, in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that an appropriate record is made of archaeological evidence that may be affected by the development.*

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

*I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and any finds and archive deposited in accordance with relevant national and local guidelines.*

*I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.*

**Conservation Officer:** See Main body of the report

## **6. REPRESENTATIONS**

No representations received

## **7. TOWN / PARISH COUNCIL'S COMMENTS**

No Objection

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposal would be liable for CIL.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

- Due to its scale, nature and location this development will not have significant

## **10. CARBON/ CLIMATE IMPACT**

- As a minor proposal, the carbon impacts of this development would be limited. Were permission to be granted, an informative encouraging the use of low carbon construction techniques and technologies would be applied alongside consideration of Chudleigh NDP policies.

## **11. HUMAN RIGHTS ACT**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **Business Manager – Strategic Place**