

Planning Committee

Wednesday, 9 April 2025 at 2.15 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Wednesday, 11 June 2025 at 2.15 pm

Please Note: This meeting will take place at Phoenix House and members of the public and press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be hybrid and an audio recording made and published on the website after the meeting.

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Membership

Cllr S J Clist
Cllr G Cochran
Cllr F J Colthorpe
Cllr L J Cruwys
Cllr G Czapiewski
Cllr G Duchesne
Cllr C Harrower
Cllr B Holdman
Cllr M Jenkins
Cllr N Letch
Cllr S Robinson

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

1 APOLOGIES AND SUBSTITUTE MEMBERS

To receive any apologies for absence and notices of appointment of substitute.

- 2 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the agenda from members of the public and replies thereto.

 Note: A maximum of 30 minutes is allowed for this item.
- 3 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters.
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 18*)
To consider whether to approve the minutes as a correct record of the meeting held on 12 March 2025.
- 5 **CHAIR'S ANNOUNCEMENTS**
To receive any announcements the Chair may wish to make.
- 6 **WITHDRAWALS FROM THE AGENDA**
To report any items withdrawn from the agenda.
- 7 **THE PLANS LIST** (*Pages 19 - 42*)
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 43 - 44*)
To receive a list of major applications and potential site visits.
- 9 **APPEAL DECISIONS** (*Pages 45 - 46*)
To receive a list of recent appeal decisions.

Stephen Walford
Chief Executive
Tuesday, 1 April 2025

Guidance notes for meetings of Mid Devon District Council

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If the Council experience technology difficulties at a committee meeting the Chairman may make the decision to continue the meeting 'in-person' only to conclude the business on the agenda.

1. Inspection of Papers

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at Committee@middevon.gov.uk

They can also be accessed via the council's website [Click Here](#)

Printed agendas can also be viewed in reception at the Council offices at Phoenix House, Phoenix Lane, Tiverton, EX16 6PP.

2. Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership.

The Code of Conduct can be [viewed here](#):

3. Minutes of the Meeting

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting. Minutes of meetings are not verbatim.

4. Public Question Time

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. You must provide copies of questions to be asked no later than 4pm on the day before the meeting. Please refer to the Planning Committee Procedure Planning Committee Procedure (middevon.gov.uk). This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

5. Meeting Etiquette for participants

- Only speak when invited to do so by the Chair.
- If you're referring to a specific page, mention the page number.

For those joining the meeting virtually:

- Mute your microphone when you are not talking.
- Switch off your camera if you are not speaking.
- Speak clearly (if you are not using camera then please state your name)
- Switch off your camera and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called "turn on live captions" which provides subtitles on the screen.

6. Exclusion of Press & Public

When considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act. If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed. They will be invited to return as soon as the meeting returns to open session.

7. Recording of meetings

All media, including radio and TV journalists, and members of the public may attend Council, Cabinet, PDG and Committee meetings (apart from items Media and Social Media Policy - 2023 page 22 where the public is excluded) you can view our Media and Social Media Policy [here](#). They may record, film or use social media before, during or after the meeting, so long as this does not distract from or interfere unduly with the smooth running of the meeting. Anyone proposing to film during the meeting is requested to make this known to the Chairman in advance. The Council also makes audio recordings of meetings which are published on our website [Browse Meetings, 2024 - MIDDEVON.GOV.UK](#).

8. Fire Drill Procedure

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9. WIFI

An open, publicly available Wi-Fi network is normally available for meetings held in the Phoenix Chambers at Phoenix House.

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 12 March 2025 at 1.15 pm

Present

Councillors

L J Cruwys (Chairman)
S J Clist, G Cochran (Vice-Chair),
F J Colthorpe, G Czapiewski, J M Downes,
C Harrower, B Holdman, L G J Kennedy,
M Jenkins and S Robinson

Apologies

Councillors

G Duchesne and N Letch

Also Present

Councillors

S Keable and J Poynton

Also Present

Officers)

Maria De Leburne (Director of Legal, People & Governance (Monitoring Officer)), Richard Marsh (Director of Place & Economy), John Hammond (Development Management Manager), Jake Choules (Planning Officer), Tim Jarrett (Arboricultural Officer), John Millar (Area Team Leader), Daniel Sims (Planning Officer), Heather Nesbitt (Planning Enforcement Officer) and Angie Howell (Democratic Services Officer)

Councillors

Online

A Glover, L Knight and D Wulff

Officer Online

Dr Stephen Carr

82 APOLOGIES AND SUBSTITUTE MEMBERS (00:04:37)

Apologies were received from Cllr G Duchesne with Cllr J Downes substituting and Cllr N Letch with Cllr L G Kennedy substituting.

Cllr M Jenkins confirmed he would be late attending.

83 **PUBLIC QUESTION TIME (00:05:54)**

Chris Howard – referred to Application No. 24/01618/FULL and asked the following questions:-

Q1: Are Members aware of Devon County Council's guidance notes on Sustainable Drainage Systems? Section 9, 'Requirements for planning' states the need for consideration of drainage at the earliest possible stage. It also suggests that a major development (10 houses or more) should receive greater scrutiny. Here we have two developments of five houses ie 10, with obvious collaboration and shared drainage strategy.

'Sustainable Drainage System – Guidance for Devon (2023)' states that a discharge of a condition should only be approved for a development if there is a clear maintenance schedule for the attenuation tank. I have not seen this schedule on the mid Devon portal.

Q2: Bearing all of this in mind, does the Council believe that this development is following best practice as laid out by Devon County Council in their document *'Sustainable Drainage System – Guidance for Devon (2023)'*?

Responsible development

Q3: Are Members aware that when the plans to run the pipes across our properties first appeared on the Mid Devon portal, neither us nor our neighbour had been approached by the developer. We had a tip off from a neighbour. Last summer, we received phone calls from South West Water, giving 7 days' notice of a proposed site visit to our gardens. We had not agreed to this and no planning permission had been approved at this stage. We also received an e-mail from one of the developers suggesting that we should cooperate with them and get a better deal because South West Water will ultimately make a requisition and come and, to quote, 'bash a trench' through our gardens. There also appears to have been no attempt to redesign the number or layout of the houses to accommodate an alternative drainage strategy.

Q4: Does the Committee believe this is the trademark of responsible and considerate development?

Connection to adjacent development

Q5: Are Members aware that the drainage will connect to the adjacent development 19/00914/FULL. We did not object to this application in the first instance because our properties were not directly impacted. However, retrospective planning meant the pipes were re-routed to come across ours and our neighbour's gardens. At this point we had no formal right to object which seems extremely unreasonable. We are told that our only way to object to this adjacent development is via a civil action.

Q6: Will the Committee support us in obliging the developers of 24/01618/FULL and 19/00914/FULL to look again at the collaborative design of the whole site with a view to keeping drainage off third party land?

Stephanie Howard – referred to Application No. 24/01618/FULL and asked the following questions:-

Attenuation tank

Q1: Are Members aware that the attenuation tank is just shy of the volume of Tiverton swimming pool, (21 x 9 x 1.5 metres)? This will be located within a few metres of ours and our neighbours' boundaries. Who exactly will be responsible for the regular maintenance of this tank bearing in mind there are two applicants making use of it?

Q2: How will the Council ensure accountability for the ownership and maintenance of this tank especially regarding any potential failings?

Route

Q3: The development will be accessed through Clay Lane. Are the Committee aware of any reason, other than financial viability for the developer, why the drainage should not go along Clay Lane or other public highways instead of through other people's property?

Only one trial pit

Q4: Are Members aware that only one trial pit appears to have been dug on site for this development of five houses? There appears to be no indication on the portal where this was excavated, and I cannot see any accompanying technical memo. The assumption seems to have been made that the whole site will be unsuitable based on this one pit.

Q5: Do Members feel this is adequate testing regarding trial pits to rule out on-site infiltration tanks which would be higher up the South West Water hierarchy?

Site visit

Q6: When making such a controversial decision that will have such a significant effect on local residents, do the Committee feel that the Planning Officer and Committee Members should undertake a site visit to look at the residents' homes that will suffer this destruction?

Duty of care

Q7: While we understand new houses are needed in Mid Devon, do the Committee feel that it is right for new developments to involve the destruction of parts of other residents' properties and gardens, because adequate drainage plans have not been appropriately planned at the start?

Q8: Do new developers have more rights than existing residents?

Q9: Do the Committee feel that Mid Devon District Council have a duty of care to residents' wellbeing and protect such violations of their homes and properties?

Pamela Disney – referred to Application No. 24/01618/FULL and asked the following questions:-

Q1: Are Members aware that plans have been drawn up without any true understanding of the route it will take? Drawing a line on a map cannot take into account the potential damage to patios, tarmacked drives, flower beds, 3 hedges (and their biodiversity), lawn, clay pipes, and wooden fences in its path. It will also severely hamper vehicular and pedestrian access to the homes whilst work is in progress.

Q2: Does the Committee believe that residents should be subjected to this intrusion, distress and impact on their properties because the developer's original drainage plans have not worked out?

Michael Cuthbertson - referred to Application No. 24/01618/FULL and asked the following questions:-

The officer's report states that "the surface water drainage scheme proposed under the application before Committee has already been found to be acceptable under application reference 19/00914/FULL".

Q1: Are the Committee aware that this was by way of a condition discharge application (discharging an already discharged condition) which did not require consultation to neighbouring properties & statutory consultees?

NB: This only actually came to light when 24/01281/FULL (another application to vary Condition 3 of 22/00432/FULL) was consulted on and drew several objections before being withdrawn with the developers "looking again at an alternative drainage solution for this project." However the condition discharge application contained the very same drainage strategy!

Q2: Are the Committee aware that there is an approximate 3m drop in elevation from the hydro brake chamber at the edge of the application boundary to the surface water sewer in The Spinney? Approximately 2m of this level change occurs between the boundary of Eastfield House and the proposed connection to the surface water sewer in The Spinney. This fall needs to be achieved over 79.4m of pipe – an average gradient of 1 in 26.8 over the entire length.

Q3: Is this an acceptable gradient and if so, what depth of trench will be required to achieve this fall?

Q4: Are the Committee aware that only 3 properties in The Spinney were included in consultation for a proposed scheme that would extensively disrupt access all 6 properties with driveways on The Spinney (Nos. 1-4 The Spinney, plus "Beacon View" & "Avenell" whose addresses are on Ashley Road), given that the surface water sewer connection point is at the end of the driveway to No. 3 The Spinney which is the first house in the close?

Q5: Are the Committee aware that the proposed foul water drainage scheme will connect a further 10 dwellings to an existing foul sewer serving 3-5 dwellings? Sewer construction guidance states that foul sewer pipes serving 10 houses or less should be 100mm in diameter, with more than 10 houses requiring 150mm diameter pipes.

It is believed that the works in 3rd party land to commence the foul sewer connection have already taken place, though the foul water scheme has not been approved for either this application or 19/00914/FULL

Q6: Would the Committee undertake a site visit to determine if this is the case?

Q7: In general, would the Committee undertake a site visit to assess the impact of the proposed scheme to neighbouring residents and the environment?

84 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:18:07)**

Members were reminded of the need to declare any interests where appropriate.

Cllr S Clist made a declaration in accordance with Protocol of Good Practice for Councillors dealing with planning matters regarding planning application numbers 24/00840/FULL and 24/01618/FULL as he had received communications. For Application No. 25/00205/NMA he was the Cabinet Member for Housing, Assets and Property Services and this fell within his portfolio and confirmed he had no involvement in this application.

Cllr J Downes made a made a declaration in accordance with Protocol of Good Practice for Councillors dealing with planning matters regarding planning application number 24/00840/FULL in that he had received email correspondence from an objector.

85 **MINUTES OF THE PREVIOUS MEETING (00:19:00)**

The minutes of the previous meeting held on 12 February 2025 were agreed as a true record and **SIGNED** by the Chair.

86 **CHAIR'S ANNOUNCEMENTS (00:09:16)**

The Chair reminded the Planning Committee of a Members Briefing taking place on Thursday 27 March, 2.00pm at Phoenix House regarding Tiverton Eastern Urban Extension Area B and encouraged all Councillors to attend in person.

87 **WITHDRAWALS FROM THE AGENDA (00:20:01)**

There were no withdrawals from the Agenda.

88 **PERFORMANCE DASHBOARD QUARTER 3 (00:20:05)**

The Group were presented with, and **NOTED**, a slide * showing the Performance Dashboard for Quarter 3 2024/2025. The following was highlighted within the report:-

- The overall performance was presented in a pie chart and combined RAG (red, amber, green) ratings from both performance and finance measures to indicate overall performance.

- Major planning applications determined within 26 weeks and minor and other planning applications determined within 16 weeks were both shown as amber which were set against an in-house target of 100% rather than national targets of 60% and 80% respectively.
- There was lower planning income in the financial year due to the depressed housing market which carried through to the discretionary planning fees which also showed as amber.
- The income for discretionary fees was projected to finish at only £3000 behind target for the year.

Discussion took place regarding:

- The cost of planning appeals – it was explained that no costs were currently showing against this measure.

Note: * Slide previously circulated.

89 THE PLANS LIST (00:24:02)

The Committee considered the applications in the *Plans List.

1. 24/00840/FULL - Erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, Crediton, Devon. (00:24:30)

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The application had been called in by the Ward Councillor due to: overdevelopment of the site; possible illegal use of the site; development in a floodplain; and environmental impact.
- The building required additional storage for equipment and machinery to be kept dry and safe from theft with the benefit of also helping to tidy the area.
- The application was submitted in June 2024 and during consideration of the application Planning Officers had worked with the Applicant and the Agent to proactively negotiate amendments and agreements.
- The key considerations raised by objectors and Crediton Town Council were issues relating to flood risk. The Environment Agency initially objected on the grounds of insufficient risk assessments.
- Following a revised Flood Risk Assessment the Environment Agency confirmed they had no objections provided it was built in accordance with the updated Flood Risk Assessment and associated planning drawings. They were satisfied that there would be no risk to third parties and that the area could be considered as Flood Zone 3a for this development.
- The flood risk assessment confirmed that precautions of flood resilient measures should be taken as recommended by the Environment Agency, which included that all ground floor construction should be a flood resistant material and all electricity power supply cables should be downwards fed.
- In order to address concerns raised by the community a condition had been recommended by the Public Health Officer that no machinery should be operated except during the hours of 7.30am-7pm Monday-Fridays or 8.00am-1pm on Saturdays and not at all on Sundays or bank holidays all of which had been agreed with the Applicant.

- There were a number of conditions recommended to secure tree protection measures and additional planting should be undertaken.
- Concerns had been raised regarding the impact on the highways network. The County Highways Authority visited the site and raised no objections, they also confirmed that a figure had been taken from TRICS (Trip Rate Information Computer System) database and this showed there would not be a severe impact on the highways network.

Discussion took place regarding:-

- The type of tree used when planting for screening as the Committee felt that Leylandii would grow very tall and quickly outgrow the screen effect and were concerned about the future management and maintenance of the trees.
- The preferred use of a more sensitive species to be planted.
- The use of water butts and whether they would overflow – it was explained that they would be fitted with an overflow that would discharge onto the grass bank.
- Concerns regarding flood risk to the wider area.
- The colour of the material being used – it was explained that by using green cladding it would blend into the countryside better than the existing grey buildings on site.
- Lighting on the site and whether a motion sensor could be used.
- Additional conditions regarding the change of opening hours the use of the mezzanine and lighting. It was explained that planning justification must be considered when applying additional conditions.

Cllr J Downes requested a site visit and in turn for this item to be deferred, which was seconded by Cllr S Robinson. Upon a vote being taken the request for a site visit was declared to have **FAILED**.

It was **RESOLVED** that planning permission be granted subject to conditions including:-

- An amendment to Condition 7 to include a request for an additional scheme relating to all of the boundaries prior to commencement of works in terms of planting and having an informative in using a more suitable long term species to include height management.
- Along with a condition, should any lighting be required, that a proposed scheme of external lighting for the building be submitted and approved in writing by the Local Planning Authority prior to its first use.
- Delegation was given to the Development Management Manager to finalise the wording in line with the above.

(Proposed by Cllr S Clist and seconded by Cllr C Harrower)

Reason for the Decision – In the interests of nature conservation, neighbouring amenity and to prevent unacceptable levels of light pollution, in accordance with Policies DM1 and DM4 of the Mid Devon Local Plan 2013 – 2033.

Notes:-

- (i) Cllr L G J Kennedy declared that he was a director of Devon Association of Local Councils (DALC) and that Cllr Liz Brookes-Hocking was the Chair of DALC.
- (ii) Rose Tripp, Russets spoke on behalf of the Agent.
- (iii) Cllr L Brookes-Hocking, spoke on behalf of Crediton Town Council.
- (iv) Cllr J Downes spoke as the Ward Member
- (v) Cllr J Downes and Cllr S Robinson voted against the application.
- (vi) Cllr M Jenkins arrived at 1.50pm and abstained from voting as he was not in attendance for the duration of this item.

2. 24/01618/FULL - Variation of Condition 3 of Planning Permission
22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage at Land at NGR 306758 113093, Clay Lane, Uffculme. (01:43:04)

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The proposed development was for the variation of Condition 3 of Planning Permission which aimed to amend a previously approved drainage scheme.
- The application was called in by Cllr A Glover to assess the impact on neighbourhood amenities local services, drainage, flood risk and the environment.
- It fell within Flood Zone 1 which represented the lowest probability of sea or river flooding.
- The proposed site benefitted from planning permission for 5 dwellings and the site immediately to the east also benefitted from permission for 5 dwellings. The applicants had worked together on the drainage schemes.
- Infiltration and testing on the site found it was not possible to carry out infiltration due to the clay like surface conditions. The next solution would be connection to a surface water body.
- The nearest body of water was the River Culm which was 300 metres from the site and would need to pass through the main village and this was not considered to be a practical option.
- The next option was a connection to a surface water sewer which was located 50 metres from the site and was therefore considered a more realistic option.
- South West Water (SWW) confirmed they were satisfied that the revised drainage scheme met with the destination hierarchy and there were no objections from any other professional consultees.
- This would require works on third party land which had formed much of the public objections to the application.
- The surface water would eventually move to an attenuation basin which would store water in order to prevent too much discharge into the network based on capacity calculations. This would then be pumped into the sewage network.
- Mid Devon District Council would have enforcement powers to ensure the attenuation basin was maintained.
- The revised drainage scheme was not expected to impact or harm the character of the Conservation Area.

- Whilst officers did have sympathy with neighbours who would be impacted by the work to their property, South West Water had requisition powers to carry out those works.

In response to public questions the Planning Officer answered as follows:-

Some of the questions were directed to Members and others have mostly been answered within the officer report and throughout this presentation.

Q1 - Chris Howard: Sustainable Drainage System – Guidance for Devon (2023)' states that a discharge of a condition should only be approved for a development if there is a clear maintenance schedule for the attenuation tank. I have not seen this schedule on the mid Devon portal.

A1: I would clarify that this was guidance as opposed to policy and the Devon County Council Lead Local Flood Authority did not comment on the application due to it not being a major and not being in an area of high flood risk or in a critical drainage area.

Q3 – Chris Howard: The developers had not consulted with the neighbours.

A3: This was outside of the Local Planning Authority's control and the planning application itself was correctly advertised by a site notice, an advert in the press and writing to adjoining neighbours.

Q4 – Stephanie Howard: Are Members aware that only one trial pit appears to have been dug on site for this development of five houses?

A4: One trial pit was dug on the site specific to this application with others being dug on the adjacent site which had very similar ground conditions.

Q6 – Stephanie Howard: When making such a controversial decision that will have such a significant effect on local residents, do the Committee feel that the Planning Officer and Committee Members should undertake a site visit to look at the residents' homes that will suffer this destruction?

A6: I had visited the application site, it was for Members to decide if they would like to defer for a site visit although I am not sure what the purpose would be.

Q2 – Michael Cuthbertson: Are the Committee aware that there is an approximate 3m drop in elevation from the hydro brake chamber at the edge of the application boundary to the surface water sewer in The Spinney?

A2: This referred to land outside of the red line but it was common for drainage schemes to utilise the existing topography of sites.

Q5 – Michael Cuthbertson: Are the Committee aware that the proposed foul water drainage scheme will connect a further 10 dwellings to an existing foul sewer serving 3-5 dwellings? Sewer construction guidance states that foul sewer pipes serving 10 houses or less should be 100mm in diameter, with more than 10 houses requiring 150mm diameter pipes.

A5: This would need to be a suitable size to join the network and be agreed by SWW.

Discussion took place regarding:-

- Whether conditions could be placed on South West Water (SWW) to reinstate neighbours land and to correct any potential damage to their property/land? It was explained that this was not possible as it would be an agreement between residents and SWW as they were the Statutory Body.
- Who would be responsible for the maintenance of the attenuation tank and the sewers? It was believed that SWW would be responsible.
- The capacity of the attenuation tank and the risk of flooding.
- The lack of consultation with residents and engagement with third parties.
- The removal of hedgerow, the protection of tree roots and the impact on wildlife
- The fact that only one trench had been dug for this development.

It was **RESOLVED** that planning permission be refused.

(Proposed by Cllr S Clist and seconded by Cllr B Holdman)

Reason for the Decision – Insufficient information had been submitted to justify why the foul drainage water scheme could not join the sewer at Clay Lane. Similarly, insufficient infiltration testing had been carried out to justify why infiltration was not a realistic surface water drainage solution. In the absence of sufficient evidence it was considered that this solution would result in unjustified impacts upon the amenity of neighbours and did not represent a clear understanding of the site contrary to policies S1 and DM1 of the Mid Devon Local Plan (2013-2033).

Notes:-

- (i) Chris Howard spoke as the objector.
- (ii) Simon Lane spoke on behalf of Uffculme Parish Council.
- (iii) Cllr J Poynton and Cllr A Glover spoke as Ward Members.
- (iv) Cllr G Cochran, Cllr F J Colthorpe, Cllr L Cruwys and Cllr M Jenkins voted against the application.
- (v) It was agreed that if the decision were to be appealed then Cllr S Clist, Cllr L G J Kennedy and Cllr S Robinson would sit in on the appeal.
- (vi) Cllr J Downes left the meeting at 3.13pm and Cllr L G J Kennedy left the meeting at 4.00pm once this item had been voted upon.

3. 25/00205/NMA - Non-Material Amendment for 23/00129/MFUL to allow alterations to the site plan, including cycle storage arrangements, landscaping and addition of footpath; amendments of internal layouts, including relocation of external doors and windows at Dwelling Block 2 - 8 Holly Road and, Garage Blocks Sycamore Road, Tiverton. (02:45:51)

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- This application was for a non-material amendment to allow alterations to the site plan which included cycle storage arrangements, landscaping, the addition of a footpath and amendments to the internal layouts including relocation of external doors and windows.
- As Mid Devon District Council were the applicant and landowner there was a requirement for the application to be determined by the Planning Committee.
- The amendments to the scheme were very small and insignificant in the sense that they did not require further consultation and were considered to be a non-material amendment.
- If the Committee deemed the amendment to be of a greater scale then a more formal revised application would be required.
- The changes proposed were to change the layout of the approved dwellings to ensure the properties were more accessible to future occupiers.
- There would be a rearrangement of windows and doors.
- The floor plans showed very minor changes inside the property and all rooms complied with National Space Standards.
- The bin and cycle storage areas had been reduced and parking arrangements had been previously approved.

Discussion took place regarding:-

- Reduction in waste and recycling storage. It was explained that there was storage provision and that the space met the Waste Standards for Devon County Council in terms of collection and storage of waste.

It was **RESOLVED** that planning permission be granted for the Non Material Amendment.

(Proposed by Cllr S Robinson and seconded by Cllr C Harrower)

Reason for the Decision – as set out in the report.

Note:-

- (i) Cllr G Czapiewski spoke as Ward Member.

4. 25/00076/TPO - Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO at 38 Redvers Way, Tiverton, Devon.
(03:02:31)

The Arboricultural Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The application was brought to the Planning Committee as the Applicant was an employee of Mid Devon District Council.
- The tree was in a residential area that bordered seven properties.
- Since the Tree Preservation Order (TPO) was made in 2006 applications had been received every four to five years to prune the tree due to the close proximity to the surrounding dwellings.
- Previous pruning had been undertaken to reduce the crown spread in order to maintain a more harmonious relationship between neighbours.
- The rationale provided in the application was due to the neighbours complaining that the oak tree branches were too close to the property and squirrels were entering the roof space of the adjacent property by jumping from the branches. However no evidence had been provided to support this.
- The application was not specific as to which side of the crown that required pruning. However from a site visit the south west aspect of the crown was noted to be within 0.5m of the adjacent property.
- It was anticipated that within one or two growth seasons the crown spread of the tree would directly conflict with the adjacent dwelling and any damage caused would be classed as a nuisance.
- Tiverton Town Council had been consulted on the application and had commented that the planned work might unbalance the tree and were unable to support the application.
- A sensible crown clearance could be achieved by target pruning and would not significantly alter the appearance of the tree.
- To achieve a clearance of between 2m-2.5m from the adjacent dwelling the maximum pruning wounds would not exceed 50mm in diameter and would remain appropriate to the condition of the tree.
- In the interest of visual amenity the works carried out would be in accordance with best arboricultural practice.

Discussion took place regarding:-

- The justification to prune the tree and the impact of growth increase if it were not to be pruned.

It was **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr S Clist and seconded by Cllr S Robinson)

Reason for the Decision – as set out in the report.

*List and report previously circulated.

90 **MAJOR APPLICATIONS WITH NO DECISION (03:16:00)**

The Committee had before it, and **NOTED**, a list *of major applications with no decision.

The Committee agreed the following:-

1. 24/01847/MFUL - To come to Committee – no site visit was required.
2. 25/00141/MARM - To remain delegated as per the report.

Note: *List previously circulated, copy attached to the minutes.

91 **APPEAL DECISIONS (03:21:10)**

The Committee had before it, and **NOTED**, a *list of appeal decisions.

Note: *List previously circulated, copy attached to the minutes.

(The meeting ended at 4.34pm)

CHAIR

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PLANNING COMMITTEE AGENDA - 9th April 2025

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>25/00277/NMA - Non-Material Amendment for 24/01252/FULL to allow replacement of window on south elevation, replacement of rear door on east elevation and alterations to height of new cill on the east elevation at Former Drop In Centre, Newport Street, Tiverton.</p> <p>RECOMMENDATION Grant Permission</p>
02.	<p>25/00148/FULL - Variation of condition 2 of planning permission 23/01923/FULL (Construction and operation of a micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box at Land at NGR 282446 100921 (Playing Field), Avranches Avenue, Crediton.</p> <p>RECOMMENDATION Grant permission subject to conditions</p>
03.	<p>25/00147/FULL - Variation of condition 2 of planning permission 23/01615/FULL (Construction and operation of micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box at Car Park, Fernworthy Park, Copplestone.</p> <p>RECOMMENDATION Grant permission subject to conditions</p>

Application No. 25/00277/NMA

Grid Ref: 295480 : 112723

Applicant: Mrs Claire Parker, Mid Devon District Council

Location: Former Drop In Centre
Newport Street
Tiverton
Devon

Proposal: Non-Material Amendment for 24/01252/FULL to allow replacement of window on south elevation, replacement of rear door on east elevation and alterations to height of new cill on the east elevation

Date Valid: 10th March 2025



APPLICATION NO: 25/00277/NMA

Site Visit: No

Decision Delayed Reason:

To allow the application to go before Planning Committee.

MEMBER CALL-IN

The application is before Planning Committee because MDDC are the applicants.

RECOMMENDATION

Grant permission for the following non-material amendment:

- Replacement of window on south elevation
- Replacement of rear door on east elevation
- Alterations to height of new window cill on the east elevation

PROPOSED DEVELOPMENT

The application is a Non-Material Amendment to application 24/01252/FULL to allow replacement of window on south elevation, replacement of rear door on east elevation and alterations to height of new window cill on the east elevation.

The proposed changes are due to be considered under S96A of the Town and Country Planning Act 1990. Due to Mid Devon District Council being the applicants, the application needs to be determined by the Planning Committee.

APPLICANT'S SUPPORTING INFORMATION

Application form and revised plans.

RELEVANT PLANNING HISTORY

24/00814/FULL - PERCON date 1st August 2024

Change of use from F2 (community use) to Eg (i) Offices to include creation of outside seating area

24/01252/FULL - PERCON date 11th October 2024

Enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue

DEVELOPMENT PLAN POLICIES

The Town and Country Planning Act 1990

The Town and Country Planning (Development Management Procedure) (England) Order 2015.

CONSULTATIONS

None

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **Background and planning history**
2. **Non-material amendment process**
3. **Proposed changes**

1. **Background and planning history**

- 1.1. Following discussion at Planning Committee, application reference 24/00814/FULL was approved in August 2024 for the change of use from F2 (community use) to E.g.(i) Offices to include creation of outside seating area.
- 1.2. Subsequently, in October 2024, Members approved application reference 24/01252/FULL for the physical alterations to facilitate the change of use which included; the enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue.
- 1.3. It is now proposed to amend the previously approved plans to allow the replacement of a window on the south elevation, replacement of rear door on east elevation and alterations to height of new cill on the east elevation.

2. **Non-material amendment process**

- 2.1. In order to regularise the proposed changes, this application has been submitted for consideration against s96A of the Town and Country Planning Act 1990 where the determination to be made is whether the changes are considered to be acceptably 'non-material' to the previously approved development.
- 2.2. There is no statutory definition of what is 'non-material' because it is dependent on the context of the overall scheme. The Local Planning Authority must be satisfied that the amendment is indeed non-material in order to grant an application under s96A.
- 2.3. An application made against s96A is not an application for planning permission and therefore the Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions in relation to statutory consultations and publicity of applications do not apply.

3. **Proposed changes**

- 3.1. In this case, the proposal seeks to allow the replacement of a window on the south elevation, the replacement of a rear door on the east elevation and alterations to the cill height of the new window on the east elevation.
- 3.2. In terms of the east elevation, the appearance of the main door will be slightly altered but the overall size of the opening remains the same and the change is therefore considered to be inconsequential. Similarly, whilst the alternative cill height and windows proposed on the

east elevation will result in smaller openings, the change is not considered to adversely impact on the previously approved development. Turning to the southern elevation, a minor change to the window design is proposed but this is also not considered to significantly alter the previously approved scheme.

- 3.3. Overall, the scale of the building will not be increased and the visual appearance of the building will remain similar to the previously approved plans. The minor changes to windows and doors will be inconsequential to the development previously approved so officers recommend that the changes be accepted as non-material.

REASON FOR APPROVAL

The proposed Non-Material Amendment to application 24/01252/FULL to allow replacement of window on south elevation, replacement of rear door on east elevation and alterations to height of new window cill on the east elevation will not increase the scale of the dwelling, nor will it detract from the quality of the previously approved scheme. There will be no detrimental visual impact or significant change to the external appearance, meaning the character of the area or neighbourhood amenity will not be impacted.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 25/00148/FULL

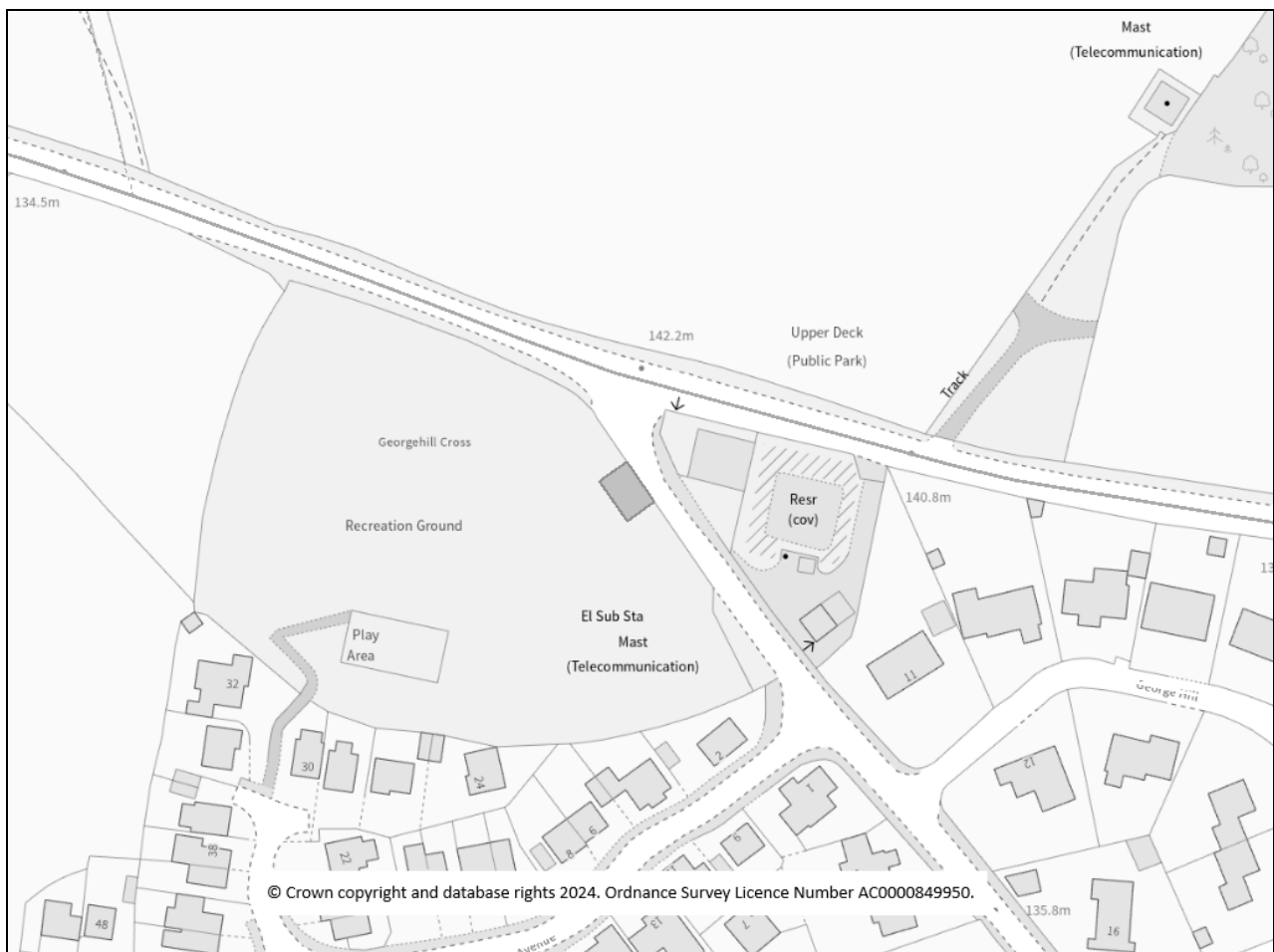
Grid Ref: 282410 : 100915

Applicant: Miss Amanda Fairman

Location: Land at NGR 282446 100921 (Playing Field)
Avranches Avenue
Crediton
Devon

Proposal: Variation of condition 2 of planning permission 23/01923/FULL (Construction and operation of a micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box

Date Valid: 3rd February 2025



APPLICATION NO: 25/00148/FULL

Site Visit: No Date of Site Visit: N/A (Officer visited site for 23/01923/FULL)

REASON FOR REFERRAL TO COMMITTEE

The application is located on MDDC land.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Variation of condition 2 of planning permission 23/01923/FULL (Construction and operation of a micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box.

Planning permission was granted on 15th February 2024 for the Construction and operation of a micro energy storage facility. The development comprised two battery units, a power conversion system (PCS) and an electrical cabinet set on a concrete plinth and enclosed by a 2.4m high paladin fence. The PCS unit is a power conversion system, also known as an inverter, which changes the direct current of electricity into an alternating current in order to export or import to/from the grid. By way of background information as to the proposal and its purpose, the original application set out the following;

This application seeks permission for a 200kW (800kWhr) Energy Storage System (ESS) ('Battery Box') [...]. AMP Clean Energy is development Battery Boxes across the UK to provide a low carbon, flexible and de-centralised source of electricity that benefits local communities, businesses, and homes. Battery boxes are micro energy storage assets, ~24sqm, equivalent to roughly 2 car parking spaces in size. AMP Clean Energy build, fund, own and operate renewable and local carbon energy facilities and flexible power assets across the UK. We have over 160 assets and provide service and maintenance to over 1000 customer sites and have 175 staff nationwide.

A Battery Box is an ESS that imports electricity from the local electricity network when demand for electricity is low or when there are high levels of renewable energy available. It then exports that electricity back to the grid when required in periods of high demand. This provides a solution to the growing need for flexibility and helps address concerns regarding grid reliability prompted by an increased reliance on intermittent generation of the electricity system.

Battery boxes connect into the low voltage (LV) network, this is the lowest and most local point in the system where there is an increasing demand for electricity with the electrification of transport and heating systems. Stored electricity from the Battery Box will be exported and consumed in the locality of the box (when it is required).

This application seeks to amend condition 2 – approved plans. The change relates to the design and specifications of the equipment as a result of a different Original Equipment Manufacturer (OEM) being used. The capacity of the units and overall operational functionality of the system are stated to remain entirely unchanged. The key differences of the previously consented scheme and the amendments now proposed are summarised below:

- Height of battery units decreased from 2.78m to 2.41m
- Length of units (combined) increased from 4m to 5.2m
- Width of units increased from 1.2m to 1.78m
- Alterations to style of perimeter fence

The installation would still be set on a concrete plinth within the original red line area.

APPLICANT'S SUPPORTING INFORMATION

Application form
 Supporting statement
 Site layout plan
 Batter equipment plan and elevations
 Electrical cabinet plan and elevations
 Fence elevations

Additional/ revised information received on 12th March 2025

- Revised site layout plan
- Additional drawing- indicative 3D drawing

The site layout plan was updated to include the tree planting previously proposed and at this stage the applicants proposed to amend the fence to enclose the entire unit. The file was updated and relevant consultations carried out, with the consultation period due to expire on 2nd April. Any comments received will be reported to members by way of an update.

RELEVANT PLANNING HISTORY

80/01684/OUT - REFUSE date 31st December 1980 Outline for residential development

23/01592/FULL - WDN date 22nd January 2024 Construction and operation of a micro energy storage facility

23/01923/FULL - PERCON date 15th February 2024 Construction and operation of a micro energy storage facility

25/00148/FULL - PCO date Variation of condition 2 of planning permission 23/01923/FULL (Construction and operation of a micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities
 S9 Environment
 S12 Crediton
 DM1 High quality design
 DM2 Renewable and low carbon energy
 DM24 Protection of Local Green Space and recreational land/buildings
 DM25 Development affecting heritage assets

Crediton Neighbourhood Plan 2018 to 2033

D1 Development Principles

En1 Open Spaces

National Planning Policy Framework

National Planning Practise Guidance

CONSULTATIONS

CREDITON TOWN COUNCIL- 6th March

Resolved to recommend no objection to the variation of condition 2, as long as the battery box is sited as shown in the original plan.

HIGHWAY AUTHORITY- 12th February 2025

No comments

MDDC PUBLIC HEALTH- 26th February 2025

We have considered the proposed amendments and do not anticipate any environmental health concerns.

MDDC TREE OFFICER- 10th March 2025

No issues from me, would still require a method statement and management plan for protection of trees and hedgerow and details of tree planting. As before this can be made a condition.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

The following properties were written to:

8 Avranches Avenue Crediton Devon EX17 2HB
6 Avranches Avenue Crediton Devon EX17 2HB
28 Avranches Avenue Crediton Devon EX17 2HB
30 Avranches Avenue Crediton Devon EX17 2HB
26 Avranches Avenue Crediton Devon EX17 2HB
24 Avranches Avenue Crediton Devon EX17 2HB
4 Avranches Avenue Crediton Devon EX17 2HB
2 Avranches Avenue Crediton Devon EX17 2HB
34 Avranches Avenue Crediton Devon EX17 2HB
32 Avranches Avenue Crediton Devon EX17 2HB
65 High Street Crediton Devon EX17 3JX

At the time of writing this report one objection has been received, the comments are summarised below;

- The park is for children, dog walkers and community events
- It will be a far bigger construction than previously approved
- The construction is not suitable to be placed in this environment

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy and principle of development**
- 2. Design, appearance and amenity impacts**
- 3. Impacts to heritage assets**
- 4. Other issues**

1. Policy and principle of development

- 1.1. S.73 of the Town and Country Planning Act relates to the determination of applications to develop land without compliance with the conditions previously attached. It states that on such applications, the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted. If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If it is decided that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 1.2. The principle of development is established by the previous permission therefore this report does not seek to revisit this. The proposed amendments, as summarised above, relate to technical design specifications and do not detract from the intended purpose of the development to enable storage and flexible use of energy. In this regard, the proposal is considered to align with the NPPF, PPG and policies S1 and DM2 of the Mid Devon Local Plan 2013- 2033 which aim to support renewable and low carbon energy and associated infrastructure.

2. Design, appearance and amenity impacts

- 2.1. The siting of the development remains unchanged. The overall height of the components (PCS, battery units and electrical cabinet) has reduced slightly whilst their footprint area has slightly increased. However the components remain set within a fenced compound, therefore these changes are not considered to have a significant impact upon the wider character and appearance of the area.
- 2.2. The design of the fencing has been amended from a metal and wood palisade fence to be a green wire mesh fence with wooden paladin fence behind. The fence now proposed has a more solid appearance and therefore provides more effective screening of the components.
- 2.3. The tree planting previously proposed has been included in the plans and this can be secured by condition.
- 2.4. The amendments to the plans are not considered to have a materially different impact in terms of the likely impacts to amenities of nearby residential properties or members of the public within the playing field or wider area, compared to that of the original scheme.

3. Impacts to heritage assets

- 3.1. Policy DM25 states that heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:
- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;
 - b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;
 - c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;
 - d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and
 - e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).
- 3.2. By virtue of the siting of the development it is not considered likely to affect any above ground designated heritage assets.
- 3.3. In response to the original application, DCC Historic Environment Team highlighted that the site is in an area where groundworks have potential to expose and destroy archaeological or artefactual material associated with a historic chapel structure. Conditions were imposed to secure a programme of archaeological recording to mitigate the loss of the heritage assets with archaeological interest. These conditions have not yet been discharged and are therefore repeated within this recommendation.
- 3.4. The Viewpoint on George Hill, known as Upper Deck, to the north east of the site is included on the Council's Register of Heritage Assets: Local List. It is a viewpoint owned by the Town Council, 'formed on top of the reservoir' in 1915. The NPPF sets out that;
216. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 3.5. As discussed above, the proposed development will be visible within views from Upper Deck. However the proposed changes are not considered to have a material impact in terms of the level of harm arising to the non-designated heritage asset and it remains the case that the public benefits associated with the provision of the low carbon technology are considered to outweigh the harm to the non-designated heritage asset in this case.
- 3.6. On this basis the proposal is considered to be supportable in accordance with policy DM25 and guidance within the NPPF.

4. Other issues- highways, ecology, flood risk, EIA development, conditions

- 4.1. The proposed amendments to the approved plans are not considered to result in any material implications to the acceptability of the scheme in terms of highway impacts, ecology and biodiversity, flood risk or drainage matters.
- 4.2. Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.
- 4.3. The planning practice guidance sets out that for s.73 applications, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect. In this case all the conditions are considered to be relevant and have not yet been discharged, therefore they will be reimposed accordingly.
- 4.4. In accordance with the Town and Country Planning (Pre- Commencement Conditions) Regulations 2018, the applicants have been advised of the pre-commencement conditions set out below (number 3 and 5) and confirmed their agreement to these.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from 15th February 2024 (being the decision date of the original planning permission).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. 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 as agreed in writing by the Local Planning Authority.
4. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.
5. Prior to commencement of development a Method Statement and Management Plan for the protection of trees and hedgerow (both prior to and during construction works) shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. Before the development hereby approved is brought into its intended use, details of the proposed tree planting shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include the size, species and timescale for their planting. Thereafter the proposed trees must be replaced within the same growing season and in accordance with the agreed specification should they be damaged, uprooted, destroyed or die.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 218 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.
Reason for being pre-commencement: 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.
4. To comply with Paragraph 218 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.
5. To protect trees in the interests of visual amenity in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.
Reason for being pre-commencement: To ensure appropriate protection measures are secured prior to any works which may result in harm to the trees and hedgerow.
6. In accordance with the submitted details and in the interests of the character and appearance of the area in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.

INFORMATIVES

1. This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.
2. 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.
3. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

BNG – BIODIVERSITY NET GAIN

Is BNG Required? No

Is BNG Offsite only n/a

Onsite only n/a

Offsite and Onsite n/a

Is a S106 agreement required? n/a

Applications made/granted pre 12/02/2024

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption is considered to apply:

The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

- (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
- (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

The original permission to which this section 73 application relates, 23/01923/FULL) was made on 15th December 2023.

REASON FOR APPROVAL

The principle of development is established by the extant consent. The proposed amendments relate to technical design specifications and do not detract from the intended purpose of the development to enable storage and flexible use of energy. The proposed variations to the approved scheme are considered to be supportable and would not materially change the impact of the scheme in terms of visual impacts or impacts to the character and appearance of the area. It is not considered that the revised scheme raises any additional concerns or impacts in relation to the amenities of neighbouring occupiers, heritage assets, highways, ecology, drainage or flood risk. Overall, subject to conditions, it is considered that the development is supportable in accordance with policies S1, DM2 and DM25 of the Mid Devon Local Plan 2013- 2033, policy D1 of the Crediton Neighbourhood Plan and government advice in the NPPF.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 25/00147/FULL

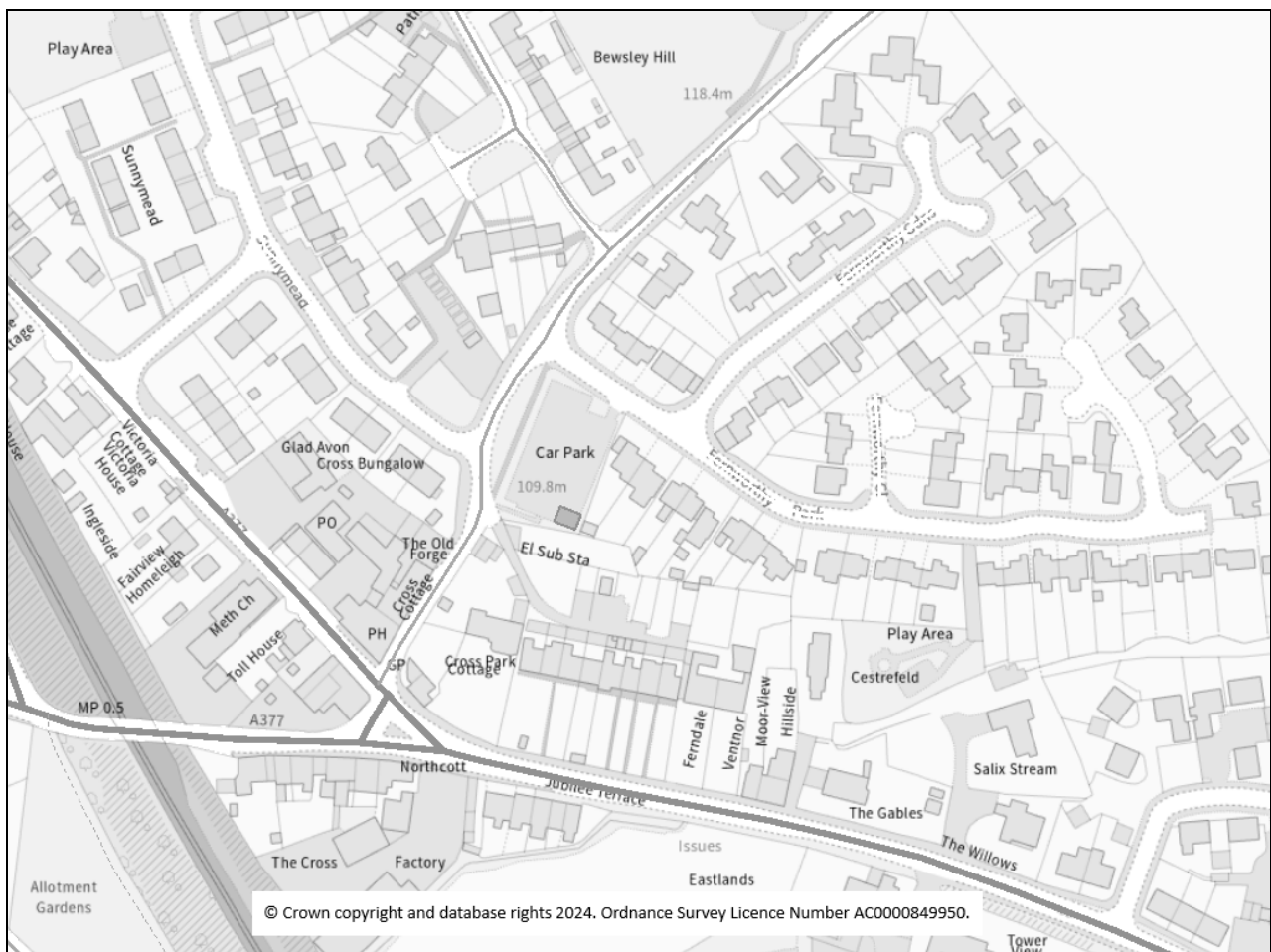
Grid Ref: 277126 : 102693

Applicant: Miss A Fairman

Location: Car Park
Fernworthy Park
Copplestone
Devon

Proposal: Variation of condition 2 of planning permission 23/01615/FULL (Construction and operation of micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box

Date Valid: 3rd February 2025



APPLICATION NO: 25/00147/FULL

Site Visit: Yes **Date of Site Visit:** 12th February 2025

REASON FOR REFERRAL TO COMMITTEE

The application is located on MDDC land.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Variation of condition 2 of planning permission 23/01615/FULL (Construction and operation of micro energy storage facility) to allow substitute plans relating to the change of design and specification of the battery box.

The site is located centrally in Copplestone within a public car park, which can be accessed via Fernworthy Park to the north. The site is bordered by public highways to the north and west, with a substation located to the south. Residential properties can be found directly to the east and to the south of the site.

Planning permission was granted on 15th February 2024 for the construction and operation of a micro energy storage facility. The development comprised two battery units and a Power Conversion System (PCS) (in total approximately 3.38m long by 1.2385m wide, 2.69m high) and an electrical cabinet (1.2m by 0.6m by 2.0m high) set on a concrete plinth (6m by 4.29m) and enclosed by a 2.4m high paladin fence. The siting of the approved scheme was amended during that application, with the development re-orientated 90 degrees to ensure that existing parking spaces within the site were not impacted upon. The planning statement set out the following information regarding the original application proposal;

This application seeks permission for a 200kW (800kWhr) Energy Storage System (ESS) ('Battery Box') [...]. AMP Clean Energy is developing Battery Boxes across the UK to provide a low carbon, flexible and de-centralised source of electricity that benefits local communities, businesses, and homes. Battery boxes are micro energy storage assets, ~24sqm, equivalent to roughly 2 car parking spaces in size. AMP Clean Energy build, fund, own and operate renewable and local carbon energy facilities and flexible power assets across the UK. We have over 160 assets and provide service and maintenance to over 1000 customer sites and have 175 staff nationwide.

A Battery Box is an ESS that imports electricity from the local electricity network when demand for electricity is low or when there are high levels of renewable energy available. It then exports that electricity back to the grid when required in periods of high demand. This provides a solution to the growing need for flexibility and helps address concerns regarding grid reliability prompted by an increase reliance on intermittent generation of the electricity system.

Battery boxes connect into the low voltage (LV) network, this is the lowest and most local point in the system where there is an increasing demand for electricity with the electrification of transport and heating systems. Stored electricity from the Battery Box will be exported and consumed in the locality of the box (when it is required).

This application seeks to vary condition 2 in regards to the plans approved by the committee under 23/01615/FULL. The removal of condition 4 of this approval was also originally proposed as part of this application, however this has now been withdrawn from the application description.

The change relates to the design and specifications of the equipment as a result of a different Original Equipment Manufacturer (OEM) being used. The capacity of the units and overall operational functionality of the system are stated to remain entirely unchanged. The key differences of the previously consented scheme and the amendments now proposed are summarised below:

- Height of battery units decreased from 2.78m to 2.41m
- Length of units (combined) increased from 4m to 5.2m
- Width of units increased from 1.2m to 1.78m
- Alterations to style of perimeter fence
- Bollards proposed to protect equipment

The installation would still be set on a concrete plinth within the original red line area. Following amendments to the proposed site layout, the equipment will now be fully enclosed within the fenced area with wood paladin fencing.

APPLICANT'S SUPPORTING INFORMATION

- Application form
- Site layout plan (revised)
- Fence elevations
- Battery equipment plans and elevations
- Electrical cabinet plans and elevations
- Supporting statement
- Battery noise assessment
- Additional information requested

RELEVANT PLANNING HISTORY

23/01615/FULL - PERCON date 15th February 2024
Construction and operation of micro energy storage facility

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities
S9 Environment
S13 Villages
DM1 High quality design
DM2 Renewable and low carbon energy
DM4 Pollution
DM5 Parking

National Planning Policy Framework

National Planning Practise Guidance

CONSULTATIONS

Copplestone Parish Council

(26.02.25)

Copplestone Parish Council have recently met to consider the application above as well as the variations required.

Copplestone Parish Council raise objections to the application as presented again. As per the design document originally supplied, this design is suite for an industrial complex. The location planned is a residential area, therefore stricter sound conditions should be adhered to at all times.

Copplestone Parish Council do not support the current application and our comments of the 9th November 2023 are repeated.

Public Health

(26.02.2025)

We have considered the variation application and have the following comments:

1. We have no concerns regarding the plans variation.
2. We would object to the removal of condition 4 which relates to off-site noise. The submitted noise report in fact shows that the requirements of condition 4 are not met at 10m (the stated nearest residence) and in fact not met at 25m. The writer of the supporting statement states that "there is zero background noise" and this cannot be the case - there is never a zero noise level. It is more likely that the background noise level is in the region of 25dBa at night, even when it "sounds" quiet to the human ear. The condition is there to ensure that the required noise level is met throughout the life of the installation in that location and therefore should not be removed.

(26.03.2025)

Thank you for reconsulting the public health team with the amended application which removes the request to remove the noise condition. On this basis we have no objection to this application. We note the concerns of residents but if there are unacceptable levels of noise from the units after commissioning they are best advised to raise this with the public health team who will investigate.

REPRESENTATIONS

This planning application has been advertised by means of two site notice erected by the case officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

2 properties were written to as part of this notification. At the time of writing this report, 4 objection comments from 2 objectors have been received, raising the following summarised points;

- Concerns raised regarding the proposal to remove condition 4 relating to noise level restrictions.
- Concerns regarding the consultation response from Public Health, regarding noise levels stated within the submitted battery noise assessment.

- Who will be responsible for the maintenance of this unit? What is the schedule for such maintenance and who audits the upkeep of this unit? Will this information be publicly available?
- Concerns raised regarding the proposed fencing, which will not fully enclose the equipment to the rear. Suggested that the addition of a solid fence to the back of the unit is essential to reduce the noise level at close quarters.

Please note that the full objection comments can be found on the public planning file.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **Policy and principle of development**
2. **Design, appearance and amenity impacts**
3. **Other issues**

1. Policy and principle of development

- 1.1. S.73 of the Town and Country Planning Act relates to the determination of applications to develop land without compliance with the conditions previously attached. It states that on such applications, the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted. If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If it is decided that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 1.2. The principle of development is established by the previous permission therefore this report does not seek to revisit this. The proposed amendments, as summarised above, relate to technical design specifications and do not detract from the intended purpose of the development to enable storage and flexible use of energy. In this regard, the proposal is considered to align with the NPPF, PPG and policies S1 and DM2 of the Mid Devon Local Plan 2013- 2033 which aim to support renewable and low carbon energy and associated infrastructure.

2. Design, appearance and amenity impacts

- 2.1. The siting of the development remains unchanged. The overall height of the components (PCS, battery units and electrical cabinet) has reduced slightly whilst their footprint area has slightly increased. However the components remain set within a fenced compound, therefore these changes are not considered to have a significant impact upon the wider character and appearance of the area.
- 2.2. The design of the fencing has been amended from a metal and wood palisade fence to be a green wire mesh fence with wooden paladin fence behind. The fence now proposed has a more solid appearance and therefore provides more effective screening of the components. As access is no longer required behind the equipment, the fencing was originally proposed to not enclose these units to the rear. However to address concerns raised by residents regarding the appearance of the site and the additional noise barrier such fencing would provide, the proposed fencing will now encompass the equipment to

the side and rear of the compound. Public Health are content with this amendment, noting that this will enclose the whole unit so that this mitigation is in the control of the applicant. Bollards are also now proposed to the north of the fencing, to protect the development from vehicles using the car park.

- 2.3. The amendments to the plans are not considered to have a materially different impact in terms of the likely impacts to amenities of nearby residential properties or members of the public, compared to that of the original scheme. Originally, this application also sought the removal of condition 4 relating to restrictions on noise levels from the development. However noting the original intention of this condition to protect neighbouring residential amenity and the concerns raised by Public Health, the Parish Council and residents during the consultation period for this application, the proposal to remove this condition has since been withdrawn from this application by the applicant, and the application description amended to reflect this change. The noise condition recommended by Public Health and approved by the Committee under 23/01615/FULL will be retained as part of this permission, and this is considered to protect neighbouring residential amenity noting the concerns raised regarding noise.
- 2.4. Public Health have provided further comments noting the concerns raised by neighbouring residents regarding their initial consultation response to this application. They have confirmed that the noise condition is suitable to do the job it is in place to do. The noise won't impact on the health of anyone using their garden but if it is found that, after commissioning, there are unreasonable noise levels causing annoyance that have not been anticipated this could be followed up by the Public Health team.

3. Other issues- highways, ecology, flood risk, EIA development, conditions

- 3.1. The proposed amendments to the approved plans are not considered to result in any material implications to the acceptability of the scheme in terms of highway impacts, ecology and biodiversity, flood risk or drainage matters.
- 3.2. Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.
- 3.3. In response to the representation made regarding the safety and maintenance of the equipment, the applicant has confirmed that the following information provided in regards to the original application regarding fire risk and maintenance remains accurate and correct.
- 3.4. Fire risk - The systems include battery management system that monitors the BESS 24 hours a day. An internal short circuit detection system, temperature sensor and built in current and voltage sensors provide early warning of a malfunction and permit automatic shutdown. The system includes inbuilt heat sensors that measure the temperature of the battery units that automatically shuts down in the unlikely event that thermal runaway is detected. The equipment also automatically shuts down once it reaches the limits of its safe operating parameters. This equipment is designed to operate at altitude and in more extreme weather conditions, the UK climate is well within its safe operational envelope. The units are also equipment with fire suppression, specifically a hot aerosol spray. The Battery Box also has an internal short circuit detection system, built in current and voltage sensors all which provide early warning of a malfunction and permit automatic switch off. No comments have been received from the Fire and Rescue Service.

- 3.5. Maintenance - The site will be monitored 24/7 by AMP's Asset Management team. The site will be visited twice a year by the applicant's operational and maintenance teams as part of the standard preventative maintenance schedule and more frequently in the unlikely event of faults. For sites close to vegetation this will also include the removal of any leaves and vegetation that have accumulated.
- 3.6. As covered within the original application, having regard to the nature and location of the proposed works it is considered unlikely that the proposal would result in harm to protected species. A pre-commencement condition requesting a tree protection plan, to ensure prior to work starting that the LPA are aware if any remedial works are required to the trees to allow for the installation of the equipment, and to ensure that during the construction of the facility that existing trees and roots will not be negatively impacted upon, will be secured as agreed under the previous application.
- 3.7. The planning practice guidance sets out that for s.73 applications, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect. In this case all the conditions are considered to be relevant and have not yet been discharged, therefore they will be reimposed accordingly.
- 3.8. In accordance with the Town and Country Planning (Pre- Commencement Conditions) Regulations 2018, the applicants have been advised of the pre-commencement conditions set out below (number 3 and 5) and confirmed their agreement to these.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from 15th February 2024 (being the decision date of the original planning permission).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to commencement of development a Method Statement and Management Plan for the protection of trees and hedgerow (both prior to and during construction works) shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. The specific noise level from the equipment installed shall not exceed the background noise level (measured as La90dBa, 1 hour), at the facade of the nearest residential premises at any time. Measurements and assessment shall be in accordance with BS4142:2014 or later amendments. Daytime and nighttime background noise levels in this area can be taken as 45dBa, L90, 1 hour and 25dBa, L90, 1 hour respectively. Compliance shall be determined before the equipment is first commissioned and shall be maintained for as long as the equipment is in use.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. To protect trees in the interests of visual amenity in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.

Reason for being pre-commencement: To ensure appropriate protection measures are secured prior to any works which may result in harm to the trees.

4. To protect the amenity of local residents from excessive noise in accordance with Policy DM1 and DM4 of the Mid Devon Local Plan 2013 – 2033.

INFORMATIVES

1. This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.
2. 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.
3. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

BNG – Biodiversity Net Gain

Is BNG Required? No

Applications made/granted pre 12/02/2024

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption is considered to apply:

The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

- (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
- (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

The original permission to which this section 73 application relates, (23/01615/FULL) was made on 9th October 2023.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT/ REFUSAL

The principle of development is established by the extant consent. The proposed amendments relate to technical design specifications and do not detract from the intended purpose of the development to enable storage and flexible use of energy. The proposed variations to the approved scheme are considered to be supportable and would not materially change the impact of the scheme in terms of visual impacts or impacts to the character and appearance of the area. It is not considered that the revised scheme raises any additional concerns or impacts in relation to the amenities of neighbouring occupiers, highways, ecology, drainage or flood risk. Overall, subject to conditions, it is considered that the development is supportable in accordance with policies S1, DM1, DM2 and DM4 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Major Applications with no Decision (Since last Committee Close Date)

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
1	1	16/06/2025	25/00366/MFUL	Demolition of existing dwellings to provide 14 affordable dwellings with associated parking, landscaping and associated works	30-44 Beech Road Tiverton Devon EX16 6HW	Mr John Millar	COMM	
2	2	05/06/2025	25/00314/MOUT	Variation of condition 2 of Planning Permission 24/00372/MOUT (Variation of condition 2 of planning permission 20/01409/MOUT Outline hybrid application for the erection of industrial units within use Classes E(g), B2 and B8 on 8.74 hectares of land to include green infrastructure and Full permission for the erection of 4 industrial units (Plots 5, 9 and 10) (4327sqm) Classes E(g), B2 and B8 and creation of new vehicular access, parking, detention basin and landscaping to allow substitute plans relating to change of external design for Plots 9 and 10) for revised plans for plot 5	Land at NGR 303082 107667 Stoneyford Devon	Ms Tina Maryan	DEL	

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LIST OF APPEAL DECISIONS FROM 28 February 2025 – 25 March 2025

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
23/00085/FULL	Erection of 3 rural workers dwellings in replacement of 3 caravans	Land and Buildings at NGR 268808 104381 (West Newton) Zeal Monachorum Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
23/01916/FULL	Change of use of public house to 3 dwellings	Redwoods Inn Uplowman Tiverton Devon EX16 7DP	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
24/01079/HOUSE	Erection of first floor extension above garage to create office	Hazeldene Threshers Crediton Devon EX17 3PB	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions

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