

PLANNING COMMITTEE AGENDA - 5th December 2018

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>17/02061/MFUL - Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping at Crediton Garden Centre, Barnstaple Cross, Crediton.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
02.	<p>18/00915/MFUL - Erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings at Foundry Estate, Blundells Road, Tiverton.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
03.	<p>17/02034/FULL - Change of use of land for the siting of premises for falconry business and 1 associated dwelling at Land at NGR 283959 102949 (Barton Cross), Upton Hellions, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
04.	<p>18/01260/FULL - Change of use of agricultural land to mixed agricultural and equestrian, erection of a timber framed barn and construction of a menage at Land at NGR 316219 116022, (Poachers Rest), Clayhidon.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
05.	<p>18/00284/ADVERT - Advertisement Consent to display 8 non-illuminated heritage trail information panels at St Boniface Church, East St Junction With Charlotte St, Crediton Parish Church Car Park (The Old Organ House) , Newcombes Meadow Park, Crediton Methodist Church, Town Square, Crediton Congregational Church, & St Lawrence Green , Crediton, .</p> <p>RECOMMENDATION Grant Advertisement Consent</p>

Application No. 17/02061/MFUL

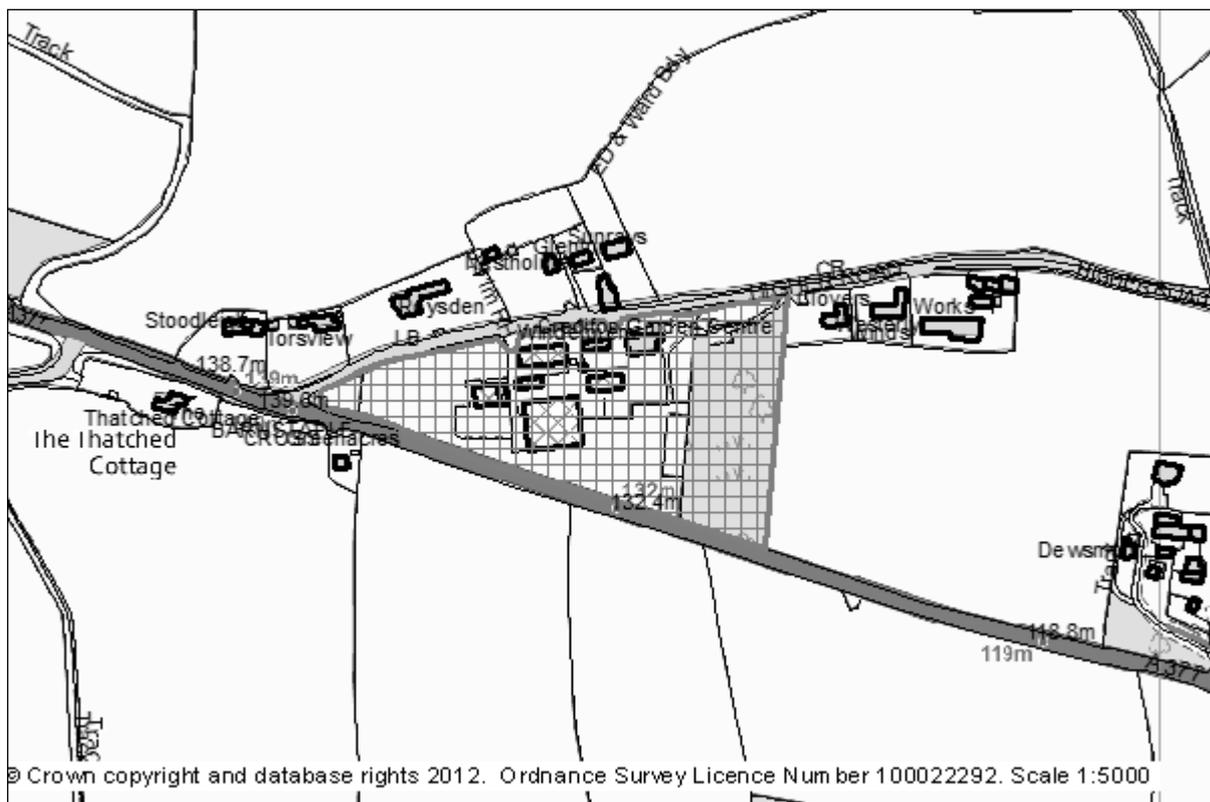
Grid Ref: 280656 : 101364

Applicant: Mr R Broad

Location: CREDITON GARDEN CENTRE
Barnstaple Cross
CREDITON
DEVON

Proposal: Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping

Date Valid: 12th April 2018



APPLICATION NO: 17/02061/MFUL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping.

BACKGROUND

This report concerns the above planning application which was first reported to the Planning Committee at the meeting on 3rd October 2018. Following consideration of the report (copy of which is attached at Appendix A) the Committee resolved that they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the application proposal would result in harm to the vitality and viability of the Crediton Town Centre and surrounding villages which would be contrary to policy DM17 and DM19.
- Whether given the size, scale and massing of the proposed buildings and the scope of hardscape introduced to accommodate the car parking requirements the application scheme would be detrimental to the visual amenities and overall character of this site in the open countryside which would be contrary to DM2, DM19 and DM20.

In addition concern was expressed about the level of lighting that would be required and how this would affect the overall character of the site especially given it is in open countryside.

- Whether given the amount of car parking proposed and the increase in number of vehicular trips on the highway network travelling to and from the application site as it proposed to be remodelled, the application scheme is considered to be an unsustainable form of development which would be contrary to DM2, DM6, DM19 and DM20.

In addition the overall sustainability credentials were challenged.

SCHEME AMENDMENTS

The application as it has been revised remains for the remodelling of the garden centre as confirmed above. However the size, scale and massing of the new building facilities proposed have been significantly reduced. Further clarification has also been provided as to the nature of layout of the internal floorspace in terms of the types of merchandize to be stocked and sold.

A summary of the key changes are set out below setting out the scope of the change to the plans as originally submitted.

1. Proposed scheme area as now revised 6000.18 square metres, compared to 7972.46 square metres as originally proposed.

2. The total covered sales floor area 2495.6 square metres, compared 3335.5 square metres as originally proposed.
3. The total outside sales area 2133.1 square metres, compared to 3090.8 square metres as originally proposed.
4. Café /restaurant area 646 square metres, compared to 1086.7 square metres as originally proposed.
5. Significant reduction in the size of covered warehouse space.
6. Clarification of how internal sales space will be used with 419.93 square metres dedicated to mainstream retail sales.
7. A softer approach to the landscape of the site.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted updated plans to reflect the scope of the changes now proposed (date stamped 1st November 2018).

RELEVANT PLANNING HISTORY

As per original report as attached

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR4 - Meeting Employment Needs
COR6- Town Centres
COR7 - Previously Developed Land
COR9 - Access
COR12 - Development Focus
COR15 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM8 – Parking
DM16 – Town Centre Development
DM17 - Development outside town centres
DM19 - Rural shopping
DM20 - Rural employment development

CONSULTATIONS

The comments that were confirmed in the report as attached are material to the consideration of the scheme as it has been revised. Members will note that no objections were raised by any of the statutory consultees. A summary of the following updated comments have been received in response to the consultation carried out on the revised plans.

Natural England – 15th November 2018: The proposed amendment are unlikely to have any significantly different impacts on the natural environment than the original proposal.

Crediton Hamlets - 12th November Crediton Hamlets Parish Council met on the 5th November and considered the differences between the revised plans and the original plans

that they had supported following a site visit. It was resolved to support the application and that the Chairman would attend to support the application if considered by MDDC Planning Committee.

Highway Authority – 7 November 2018/Historic Environment 12th November: The previous comments and conditions (refer to Report as attached) are equally applicable to the current proposals.

REPRESENTATIONS.

The comments that were received in relation to the application as it was originally proposed are confirmed in the report as attached.

Further consultation letters have been sent out to all the contributors that made comments to the application scheme as it was originally submitted. The closing date for any further comments was set as 19th November. At the time of writing this report further comments have been received from 48 stakeholders. Of the further comments received half of those stakeholders have written in to support the proposals, and half maintaining an objection to the proposals. A summary of the further comments is set out below:

A range of comments in support, including a comment in support from neighbours to the site confirming the scheme represents an improvement in terms of the current site which is untidy.

Objection comments:

The scale is still considered too large / Impact on skyline/ Impact on landscape character
It would have a negative impact on some of the shops in Crediton – a limitation on the goods sold should be considered.

The café would be aside the A377.

No facilities for pedestrians and/or cyclists to access the site.

The car park dominates and is considered unsightly.

Concerned about ecological / archaeological/ economic impacts

Highway safety concerns – both on Higher Road and the A377 / Surface water drainage issues

Finally a petition of support for the application has been submitted (134 signatures).

Any further comments, and relevant considerations arising, will be reported to members as an update to this report before the meeting on the 5th December.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The report as attached sets out the assessment and conclusions reached by officers in terms of the scheme as it was originally submitted. As stated above the Committee did not approve the recommendation as it was presented in the report with the reasoning as set out above. Therefore in re-assessing the revised plans the issues covered in this report are as follows:

1. Policy and Procedure / impact on Crediton High Street.
2. Scheme design, impact on the character, appearance and visual amenities of the area.
3. Transport & movement Issues.
4. Impact on the living conditions of nearby residential properties.
5. Summary and Planning Balance

1. Policy and Procedure / impact on Crediton High Street

The report as attached (appendix A) sets out the relevant sections of the Local Planning Authorities policy framework against which to assess this application, and your officers remain of the view that this the correct starting point for the assessment. The local planning authority have considered planning application proposals at other garden centres across the district of a similar size and nature in terms of the issues that need to be assessed. This has included:

17/01361/MFUL: Erection of garden sales area, warehouse building, alterations to existing garden centre, creation of new access on to B3181, change of use of land for the creation of public parking area and new commercial vehicle access and turning area at The Old Well, Uffculme near Cullompton. The terms of the permission allowed for an increase in the covered sales area at the site from 1145 square metres to 2521.00 square metres (with condition 11 allowing upto 630 square metres to be allowed to be used for mainstream retail sales) , a restaurant area of 698.00 square metres and a warehouse facility of 428.00 square metres.

17/00855/MFUL: Erection of extension to garden centre to form additional retail space, pallet store, covered entrance and covered outdoor areas and erection of a separate warehouse following removal of polytunnels at the Bow Garden Centre. The terms of this permission allowed for an increase in the covered sales are from just under 500 square metres to 1022 square metres allowing 250 square metres to be allowed for mainstream retail sales. This site also trades with an on- site restaurant/café.

As indicated above the decisions on both these application allow for an element of trading space for unrestricted retail activity, and on both occasions the justification provided by both applicants was so that the businesses at these two existing centres needed to expand and modernise so that they could keep in line with the ever changing and evolving garden centre sector.

As confirmed in the description of development the same reasoning applies in terms of the justification provided by the current owners of the garden centre covered by this application. The principal to allow growth and change at the site is supported in principle by policy DM20 - Rural employment development. This policy confirms that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location.

With regard to the impact of the development on the vitality and viability of the Crediton as the nearest protected town centre this is a requirement of policy DM19. When members considered the application at the last meeting the applicant had not provided any detail as to how the new building would operate, and therefore notwithstanding conditions 13, 14 and 15 as set out in the recommendation section members were not convinced that the site would continue to primarily trade as a garden centre and instead would become an out of town retail outlet (refer to appendix A).

In order to seek to allay members concerns with regards to this matter, not only is the size of the new building complex significantly smaller, a trading layout has been submitted identifying an area of 420 square metres of the covered floorspace for unrestricted retail sales. This can be controlled and managed with an appropriately condition as recommended. This balances against 4,200 of internal and external space for the display of garden centre merchandise. Therefore as a proportion of the space within the new arrangement at the site the principal activity will clearly be for garden centre sales.

As per the scheme as originally submitted there is space within the new complex to accommodate a restaurant/café as an ancillary use at the site, which can be controlled with an appropriately worded condition. The size of the proposed restaurant/café has been significantly reduced. In land-use policy terms this remains acceptable subject to the facility remaining ancillary and not a stand-alone use. From a service delivery point of view the applicant has confirmed that this aspect of the modernisation of the facilities at the site is an important aspect of the business model, just as is the case at the other two garden centres as referred to above which trade with cafes/restaurants of a similar size operating with the benefit of planning permission.

In summary the revised plan presents a building which is similar in terms of the overall amount of sales and merchandising space that could be achieved across the site at present in terms of the existing arrangements at the site (the shop, covered display space, uncovered display space, ancillary covered and uncovered areas) which in total cover an area of approximately 6081.00 square metres.

Summary: The improvements to the site are considered to be a benefit given the outdated trading model and premises that are currently on site which are dilapidated and visually incongruous. The proposals will create new employment opportunities and could secure wider benefits to the local economy if customers from a wider catchment area visit the site. Conditions are recommended to restrict the amount of mainstream retail sales space in order to seek to check the development from adversely affecting the vitality and viability of the Crediton as a protected retail centre.

Accordingly, subject to the conditions as recommended, it is considered that the planning application scheme as it has been revised is in accordance with policies including COR15, DM16, DM17 and DM20.

2. Scheme design, impact on the character, appearance and visual amenities of the area.

As stated in the report as appended the site does not sit as part of a protected landscape, the site is visible in both distant and close up views from the south west and directly from the A377.

At present the site currently presents to the A377 presents as a disjointed arrangement of poly tunnels and glass houses.

The proposals have been amended as described above with revised plans showing the scope of the built form across the site. These will be included in the presentation to the committee on 5th December.

As revised the complex is single storey across the site, and constructed as a series of portal framed buildings standing 5.0 metres to eaves and 7.0 metres to ridge and set across a plateaued area across a lower part of the site than the existing complex. In addition the

palette of materials remains as per the original plans as submitted as set out below with the colour indicated in brackets:

Roof non insulated - PPC uninsulated metal sheet cladding to walkways, profile to match roof (green)
Walls - PPC profiled insulated metal sheet cladding (green). The frontage to the restaurant/café is proposed with high level glazing, as was proposed originally.
Warehouse doors [non public] - Industrial grade roller shutter doors (grey)
Doors [public] - PPC aluminium framed windows and doors (grey)
Window and curtain glazing - PPC aluminium framed windows and doors (grey)
Roofing accessories - PPC metal ridge, valley, hip, verge and eaves flashing (green)
Solar energy - Photovoltaic array
Structural supports - Painted metal columns and beams supporting covered walkway (green)
Retaining walls - Rendered masonry, painted finish
Rainwater goods - Half round UPVC deep line gutters with round UPVC down pipes (grey)

The scope of the reduction in the size of the proposed complex also means that it will sit more comfortably within the landscape, with more soft landscaping as opposed to hardscape and the proliferation of retaining walled structures that were originally proposed. Overall as reflected in the visuals it is considered that revised development form sits comfortably within the site area without appearing visually assertive and/or detrimental to the character and appearance of this part of the Countryside.

In summary, it is considered that the application scheme as revised remains satisfactory in terms of testing it against the policy requirements of policy COR2/DM2 of the development plan.

3. Transport & Movement Issues.

The revised proposals retain the same arrangement in terms of access arrangement and car parking as follows:

Access to a staff car park using the existing point of access from Higher Road (40 spaces).

Access to a customer car park from a new entrance off the A377 with works proposed across the frontage of the site to widen the width of carriageway to ensure a safe arrangement. The improvements relate to providing an additional lane for vehicles turning right into the site (i.e. for traffic from the east/Crediton), a wide splayed entrance into the site and the formation of a new bus stop directly outside of the site (i.e. for traffic from the west/Copplestone).

In addition a footpath is proposed around the site at the Barnstaple Cross junction which will assist pedestrian movements to the site for public transport users travelling in from east.

Given the reduction in the scope of the building footprint on the site, the revised layout for the car park, the design of the car park now accommodates a higher proportion of larger sized parking spaces.

As with the original application the Highway Authority are supportive of the application in terms of the capacity of the highway to carry the additional traffic and also from a highway safety point of view in terms of the new arrangements to access the site from the A377. One clear benefit in highway terms would be that there will no longer be a need to unload stock directly from Higher Road as any unloading will now be done from directly within the site with safe access from the A377.

Overall given the comments from the Highway Authority and reflecting on the improvements proposed as part of the planning application scheme (on site and off site) it is not considered that there would be any reason to refuse the application on highway safety and/or capacity issues.

In terms of comments regarding the sustainability credentials of the application scheme, given that the site already trades as garden centre it is considered unreasonable to object to the application on the basis that some stakeholders consider it to be an unsustainable location especially given that mitigation is proposed to encourage the use of public transport to and from the site. Furthermore garden centre outlets tend to be out of centre given the product ranges and space requirements as is the case with the outlets at Bow and Uffculme as referred to above.

4. Impact on the living conditions of nearby residential properties

As stated the overall scale of development as proposed has been significantly reduced in terms of the scope of the new complex at the site. This has allowed for the new building and hardscape area to be set within a more generously landscaped site which presents as a better neighbour to the existing houses on Higher Road, many of whom have written to express their support for the proposals.

In terms of completing the assessment of the application to reflect the revised scheme, the proposals continue to be considered acceptable and in accordance with policy DM2 (e) reflecting the assessment originally reached. Please refer to report at appendix A as attached and conclusion as set out below

Reflecting on the fact the site is already operational, it is not anticipated that the proposed development would have an unacceptable effect on the privacy, amenity and/or the general living conditions of the occupiers of the residential dwellings on Higher Road, and any other neighbouring property within the vicinity. On this basis the application is considered to be in accordance with relevant part of policy DM2 (e).

Conditions are recommended requiring a construction management plan to be submitted re and with regards to future lighting details.

5. Summary and Planning Balance

This planning application proposes a significant change to the business model to be undertaken at the existing Crediton Garden Centre by the current owners who have recently acquired the site. There has been little or no expansion of the business at this site over the last 20 years or so at a time when other garden centres in the district and the wider locality have expanded and developed as allowed by the same policy framework that this application is required to be assessed against.

The scheme of development at the site has been substantially reduced in scale and the applicant has provided a proposed floor plan to clarify how the new arrangement of floorspace at the site will be used. This is in response to concerns expressed by members when the planning application was first considered by the Planning Committee earlier this year. The assessment of the application has not raised any concerns in terms of Highway safety, or capacity issues and/or in terms of managing surface water drainage requirements of the new site which includes a larger area of hardscape than as existing.

Notwithstanding the scope of the changes put forward by the applicant public opinion about allowing the site to modernise and develop remains split, with the principal concern driven by how the proposed new facilities would affect the existing retailers in Crediton and other

Garden centre traders. For members information the potential impacts on any other trading garden centre, which at this stage is no more than speculative, is not strictly a material policy driven consideration.

On the basis of the changes proposed the application proposal will deliver an appropriate enhancement and development of the facilities of this existing garden centre which will sit comfortably in the landscape on the edge of Crediton at Barnstaple Cross. Various conditions are recommended as set out below.

CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. All planting, seeding, turfing or earth re-profiling as set out on the soft landscape plan as shown on drawing 211 D hereby approved shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

4. Prior to commencement of any development on the site, a Construction Management Plan (CMP) part of the site shall have been submitted to and approved in writing by the Local Planning Authority to include the following matters:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Once approved the details shall be complied with at all times during the implementation of the planning permission.

5. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and drainage have been provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority and retained for that purpose at all times.

6. In accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

7. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority for approval.

8. The scheme of development hereby approved shall not be open to customers until the off-site highway works for the provision of a footway as shown on drawing 245 revB have been implemented in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority.

9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy (Ref. Proposed Development at Crediton Garden Centre; dated July 2018).

10. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water run-off from the construction site.

11. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

13. The scheme of development hereby approved shall operate with no more than 2,495.00 square metres of covered sales floorspace as marked up as area 9,10 and 11 as shown on drawing 212 C.

14. The scheme of development hereby approved shall operate with no more than 420.00 square metres of floor space to be used for the sale and display of convenience goods, fashion goods, clothing and footwear and food or drink related products (excluding those sold from the café/restaurant).

15. The restaurant/café area hereby approved shall only be operational as an ancillary use to the use of the site as the Crediton Garden Centre, and shall only be open for trade during the openings hours of the Garden Centre hereby approved, and at no other times unless specifically approved in writing by the Local Planning Authority.

16. The proposed scheme of lighting external to the building, across the car park and other open areas of the site shall be submitted to and approved in writing by the local planning authority prior to opening of the building for the approved use.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that the development makes a positive contribution to the character and amenity of the area, and safeguards the amenities of the existing residential occupiers along Higher Road, in accordance with policy DM2 of Local Plan Part 3: (Development Management Policies).
4. To ensure that adequate facilities are provided for all traffic attracted to the site during the construction period in the interest of safety and amenity to all road users.
5. To ensure that adequate facilities are available for the traffic attracted to the site.
6. In the interest of public safety and to prevent damage to the highway.
7. To ensure that adequate information is available for the proper consideration of the detailed proposals.
8. To minimise the impact of the development on the highway network in accordance with paragraph 32 of NPPF.
9. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
10. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
11. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

12. To ensure, in accordance with the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) that an appropriate record is made of archaeological evidence that may be affected by the development.

13. In accordance with the details as submitted and to maintain control of the use of any floor space hereby approved for A1 retail activity in the open countryside in order to prevent harm to the vitality and viability of Crediton town centre and other villages in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies).

14. To maintain control of the use of any floor space hereby approved for A1 retail activity in the open countryside in order to prevent harm to the vitality and viability of Crediton town centre and other villages in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies).

15. To prevent harm to the vitality and viability of nearby town centre in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies), and to protect the amenities of the surrounding area in accordance with DM2.

16. To protect the amenities of the surrounding area in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The site is located in the open countryside where policy COR18 applies. In summary the policy seeks to protect the open countryside from inappropriate development. Policy DM19 permits retail development in the open countryside, provided that it is in a location and of a scale that would not harm the vitality and viability of town centre or village shopping facilities, would not lead to an unacceptable impact on the local road network; and would not result in an unacceptable adverse impact to the character and appearance of the countryside. Policy DM20 - Rural employment development - advises that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. In the determination of this application, consideration has been given to the type and use as submitted and its location away from any other town or village shopping facilities.

In this instance it is not considered that an expansion and modernisation of this established garden centre would adversely affect the vitality or viability of Crediton or the surrounding villages subject to imposing a restriction on the amount of floor space that can be used for the sale and display of convenience goods, fashion goods, clothing, footwear and food or drink related products. In addition the economic benefits in terms of increased employment in the locality have also been taken into account. The proposal has been considered in terms of its impact on highway safety and whether the design is suitable for this rural location. With conditions relating to landscaping, highway matters, drainage and controls over the future uses of the proposed floor space, the application scheme considered to comply with policies COR1, COR2, COR4, COR9 and COR18 of Mid Devon Core Strategy 2007, and policies DM1, DM2, DM8, DM17, DM19, DM20 of Local Plan Part 3 (Development Management Policies).

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.

APPENDIX A

Application No. 17/02061/MFUL

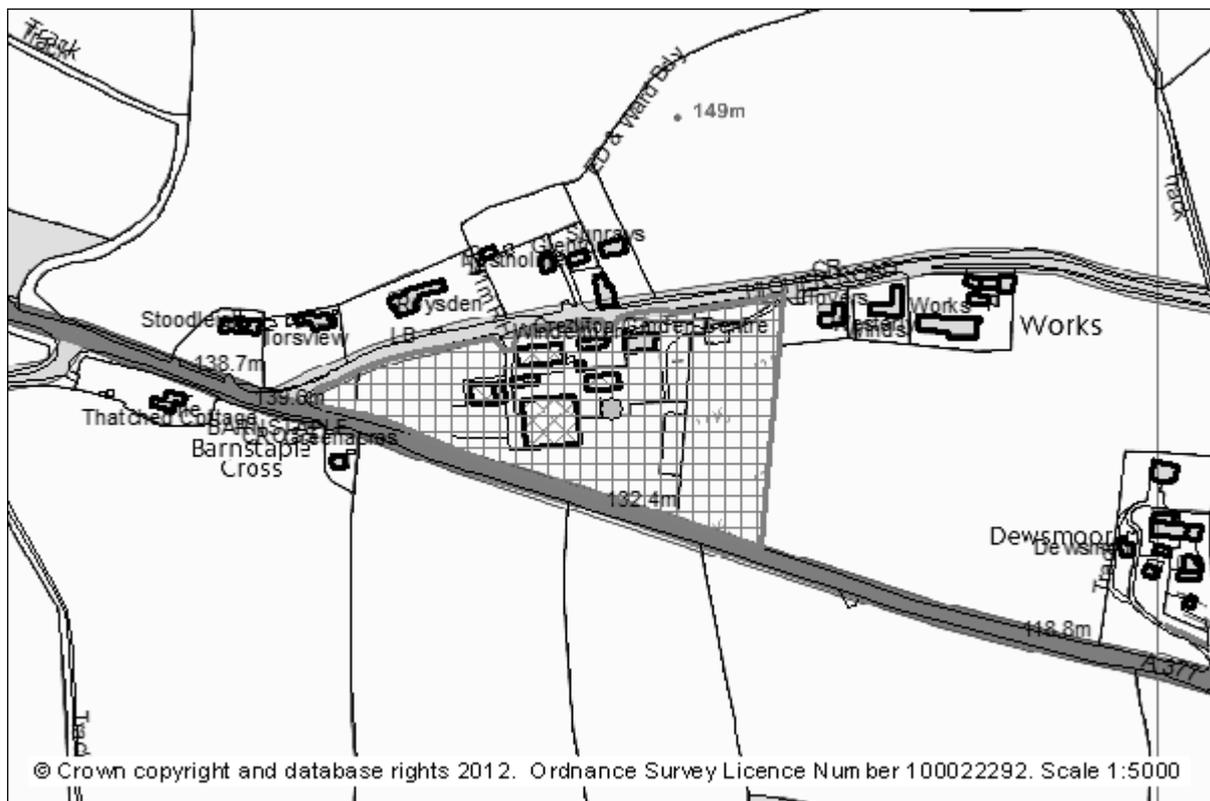
Grid Ref: 280656 : 101364

Applicant: Mr R Broad

Location: Crediton Garden Centre
Barnstaple Cross
Crediton
Devon

Proposal: Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping

Date Valid: 12th April 2018



APPLICATION NO: 17/02061/MFUL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Planning permission is sought for a remodelling of the existing garden centre following the demolition of all the existing buildings, poly tunnels/glass houses, covered and uncovered sales areas. The scheme includes a building, including a large café facility and a warehouse store, new access arrangements from the A377 and a new area of car parking.

The application covers the scope of the existing garden centre, and a section of scrub land that sits adjacent.

The site slopes down from the boundary with Higher Road down to the boundary with the A377 (with a six metre drop) with the current main access from Higher Road leading to small area for car parking directly in front of the existing main shop building. The other covered and uncovered sales/display areas across the site, where there is currently customer access, lead back to this point via a series of linking paths. The scope of this area exceeds 6,000 square metres, with an additional area to the west that is not currently used as part of the sales and display area and could provide up to 968 square metres of floor space within the 2 building structures and the gravelled hardstanding area that are located on this part of the site.

The site area as proposed is broadly the same but with a new contiguous building complex comprising; a main shop area (3,336 square metres), a warehouse (520 square metres), a café complex comprising kitchen/customer seating and soft play area/conference facility (totalling 1,429 square metres), public toilet facilities (132 square metres) and staff room facilities (117 square metres), and a new outdoor sales area comprising 2,798 square metres.

The applicant has confirmed that the application has been submitted to modernise the application site as a viable garden centre, with associated retail and other gardening related and sundry non-related goods, together with an in-house café for the on-site consumption of food and drink. At the pre-application stage the applicant advised that 65% of the expected turnover from the site would be from the sale of gardening related products, 5% from aquatic related products, 5% from pet related products, 5% from seasonal related products, 15% from the restaurant/café and 5% from giftware and clothing sales (i.e. not garden centre goods and merchandise).

In summary from a floorspace point of view the scheme proposes 6,397 square metres of covered and uncovered for the sales and display of merchandise, with the café and community spaces as referred above.

In order to accommodate the proposals a large new building complex is proposed which includes a staggered central section which will function as the main retail/shop (total width 90.0 metres) with a warehouse section (35.0 metre frontage) added to it on the eastern boundary and the restaurant space (55.0 metre frontage) added to it on the western boundary. The complex is single storey across its entirety and with a maximum of upto 5.0 metres excavation up towards the Higher Road boundary to create a level footprint for the new building. The complex is then delivered as a series of portal framed buildings standing

5.0 metres to eaves and 7.0 metres to ridge. The palette of materials is set out below with the colour indicated in brackets, with the frontage to the restaurant/café being completed with high level glazing:

Roof non insulated - PPC uninsulated metal sheet cladding to walkways, profile to match roof (green)
Walls - PPC profiled insulated metal sheet cladding (green)
Warehouse doors [non public] - Industrial grade roller shutter doors (grey)
Doors [public] - PPC aluminium framed windows and doors (grey)
Window and curtain glazing - PPC aluminium framed windows and doors (grey)
Roofing accessories - PPC metal ridge, valley, hip, verge and eaves flashing (green)
Solar energy - Photovoltaic array
Structural supports - Painted metal columns and beams supporting covered walkway (green)
Retaining walls - Rendered masonry, painted finish
Rainwater goods - Half round UPVC deep line gutters with round UPVC down pipes (grey)

Access to proposed development area is as follows:

1. A new main site entrance off the A377, on the south side of the site, incorporating a new visibility splay, with a new bus stop lay-by and associated road widening and a central turn-in lane on the highway adjacent to the site. The new access leads into a new car parking area which will be laid out with 193 car parking spaces and 3 spaces for coach parking.
2. Revisions to the existing site service access points on the north site boundary off Higher Road to facilitate access for staff (40 car parking spaces) and delivery vehicular movements, including refuse collection, on and off site. One of these two access points is the existing car park access; the other is an existing goods delivery access, to be relocated slightly westward along Higher Road which will be restricted for goods deliveries to the restaurant/cafe.

The scheme includes an additional section of footway on the western perimeter between the site edge and the public highway. This new section of pavement extends from the second vehicular entrance on Higher Road around the junction at Barnstaple Cross and running along the perimeter of the site below the café terrace along the newly created visibility display and into the site.

Some new hardscape will be required to manage the change in levels across the site, the most prominent being a section of retaining wall in front of the café/restaurant building. New soft planting is proposed around the north-south and east-west perimeter (along the A377) of the proposed car parking area.

The application site is a countryside location, beyond the settlement boundary of Crediton, and as stated is an existing trading garden centre.

APPLICANT'S SUPPORTING INFORMATION

Application forms and plans
Design and Access Statement and photographs (existing and proposed from 5 vantage points)
Ecological Assessment
Groundsure Report
Retail Statement
Statement of Community Involvement
Surface Water Drainage Report prepared by Dennis Edge (April 2018)
Drainage Strategy prepared by Dennis Edge (July 2018)

Transport Assessment (3 parts)

RELEVANT PLANNING HISTORY

In relation to the site of the existing garden centre:

93/00963/FULL - PERMIT date 24th August 1993

Erection of an ancillary shop and cafe with parking area

03/05221/FULL - PERMIT date 5th February 2004

Formation of new vehicular access, erection of replacement shop and tea room, formation of enlarged parking area and erection of four polytunnels following removal of existing.

04/02091/FULL - PERMIT date 24th November 2004

Erection of new glass house

17/02061/MFUL - PCO date

Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping

17/00164/CLU - PERMIT date 23rd March 2017

Certificate of Lawfulness for the existing use of the property as a dwelling for a period in excess of 4 years

In relation to the additional strip:

00/01005/FULL - REFUSE date 16th November 2000

Outline for the erection of a single storey dwelling and garage

84/01545/FULL - REFUSE date 4th December 1984

Erection of bungalow and garage

89/01591/FULL - REFUSE date 5th September 1989

Erection of bungalow and construction of vehicular access

94/00230/OUT - REFUSE date 19th May 1994

Outline for the erection of a bungalow

06/01785/FULL - REFUSE date 28th September 2006

Erection of stable block, hay barn and horse menage together with the change of use to equestrian purposes

83/00249/OUT - REFUSE date 11th April 1983

Outline for the erection of a bungalow

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR4 - Meeting Employment Needs

COR6- Town Centres

COR7 - Previously Developed Land

COR9 - Access

COR12 - Development Focus

COR15 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM8 – Parking

DM16 – Town Centre Development
DM17 - Development outside town centres
DM19 - Rural shopping
DM20 - Rural employment development

CONSULTATIONS

CREDITON HAMLETS PARISH COUNCIL - 6th June 2018

SUPPORT

Highway Authority - 11th June 2018 - Observations:

NO OBJECTIONS

The Highway Authority have though the process of pre application and the application process visited the site and have examined the transport assessment and are happy with the proposed layout, which is supported by an independent safety audit, and Parking and access

arrangements. The proposal for a right turn lane, footpath provision to the existing bus stops and relocated bus stop will add benefit to the safety of pedestrians and provision of improved visibility from the Barnstaple cross junction onto the A377. The applicant has provided a travel plan and this should be secured through a suitable agreement under the town and country planning act. The applicant should also covenant to enter a section 278 agreement under the highway act for the onsite and offsite highway works to provide the junction and footpaths.

Therefore should planning consent be granted the following conditions should be imposed.
Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations

- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Reason to minimise disruption and interference with the free flow of Traffic and to the amenity of the Traveling public.

2. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site

3. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

4. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, for this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

5. Off-Site Highway Works No use of the development shall take place on site until the off-site highway works for the provision of a footway from Barnstaple cross junction to the existing west bound bus stop and from the junction to the east bound bus stop within the new site access has been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with paragraph 32 of NPPF.

HISTORIC ENVIRONMENT SERVICE - 24th April 2018 - I refer to the above application and your recent consultation. The proposed development lies within a landscape containing evidence of prehistoric and/or Romano-British activity. There is a prehistoric funerary monument less than 120m to the north of the application area and there is a prehistoric or Romano-British enclosure c.350m to the south-west. Other archaeological sites from these periods are also present in the wider, surrounding, landscape. The site also occupies a south-facing slope on the hill below the funerary monument and may contain archaeological and artefactual deposits associated with early settlement here. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric and Romano-British activity in this area.

For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) I would advise 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) that an appropriate record is made of archaeological evidence that may be affected by the development.'

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.

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/>

DEVON, CORNWALL & DORSET POLICE - Re Crediton Garden Centre, Barnstaple Cross, Crediton 25th April 2018

Thank you for this application.

Following a very useful site visit Police have no objections to this proposal. This is private site to which the public are allowed / invited onto. Police do not patrol such sites to deter crime, this is down to the owners, operators and managers of the site. The site should have its own security measures in place to initially deal with incidents, much as a private shopping centre would. However due to the types of crimes and incidents that occur on such sites, Police are often called to attend and assist staff. Generally speaking, such sites become crime generators if not designed to deter crime.

It is therefore important to make sure that the layout of the site does as much as possible to deter crime, and that mitigation is in place, so that if crimes and incidents do occur, they can be easily investigated and evidence collected to assist with any police investigation.

A sensible and practical level of security, which will not adversely affect the efficiency of the retailers is essential for successful and profitable business. The following measures have all been shown to deter / stop crime and, I would recommend them all to be incorporated, if they aren't already.

I note and welcome the intention to incorporate a lockable barrier or gates at all public, staff car park and goods delivery entrance/exit points. I would ask that incorporation of a suitable barrier be considered as a condition of planning to secure these areas out of hours and thereby reduce likely incidents of crime, disorder and anti-social behaviour.

There should be no direct 'public' access from the car park to the outdoor sales area, with customers being directed through the main indoor retail sales buildings towards this area. It is recommended the indicated access lane security fence and gates be 2.4m to prevent climbing by intruders and items being easily passed over. Consideration should be given to the inclusion of fencing atop the retaining wall to the north of the outdoor sales area.

The external glazing is advised to comprise at least one pane of laminated glass.

Lead Flood Authority (Devon County Council)

NO OBJECTIONS

Initially an objection was lodged against the application proposals on 22nd May 2018. Observations at this time: The applicant will also be required to submit Micro Drainage model outputs, or similar, in order to demonstrate that all components of the proposed surface water drainage system have been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event.

The applicant should clarify what components are proposed to attenuate surface water on-site. The applicant should also provide a scaled plan to demonstrate that the proposed system can fit within the site layout. The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system. The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

However following the submission of further details (July 2018), further comments have been from the Drainage Authority of the 4 September 2018 as follows:

Following my previous consultation response (FRM/MD/02061/2018; dated 22nd May 2018), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. It was previously mentioned that rainwater harvesting may be utilised on this site, the applicant should clarify this at the next stage.

The applicant should clarify the exceedance routes for this site as part of the detailed design condition. It is noted that the attenuation tank has been designed and modelled so that the permeable paving can drain into it.

Recommendation: Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon

County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy (Ref. Proposed Development at Crediton Garden Centre; dated July 2018).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

NATURAL ENGLAND - 23rd April 2018

No comments.

REPRESENTATIONS

At the time of writing this report 93 letters of representation have been received. 33 of these letters are from stakeholders who have confirmed their support for the site proposals, with 54 raising an objection and 5 presenting general comments for consideration. A summary of the comments made in the representations are set out below under the respective headings:

Supporting comments

1. The plans look to have been carefully and sympathetically produced and appear to allow customers to enjoy the bucolic view, and improve significantly the existing garden centre.
2. The Garden centre development will bring dozens of jobs, new customers and tourists and much needed revenue to the town. Crediton deserves investment and to prosper and this development will help it do just that.
3. Having the entrance from A377 is a good idea, and the proposals along Higher Rd are an improvement.
4. The site is a brown field location so suitable for expansion, and the merits outweigh the disadvantages.
5. It is believed that the development should increase footfall on the High Street.

Objecting comments:

1. Concern about the visibility proposed for the new access.
2. The proposals will affect businesses on the High Street in Crediton given the range of goods sold at the other Homeleigh site at Launceston with the loss of jobs arising.
3. Impact on garden centres at Eggsford, Bernaville, Tuckers in Crediton and Bow.
4. Not appropriate for a Countryside location – the terms of 2003 planning approval are considered acceptable in terms of development on the site.
4. Concern as to levels of traffic on Road, and how it will affect access to Queens Elizabeth Drive.
5. Unauthorised development already undertaken.
6. Green transport options are limited / car dominated. Not a very sustainable location
7. Contrary to development plan as it will not improve economic conditions of the area/impact the High Street. Contrary to DM19 and DM17
8. Café is too large.

Twenty of the objections were submitted on a standard template letter which raise the following comments.

Negative Impact on Crediton, scale is too large, no need for another garden centre in Crediton , increase traffic congestion, no public consultation, adverse impact on amenities of surrounding occupiers, inadequate arrangements for drainage, adverse impact of landscape character and visual amenities of the area.

General comments about the scheme:

1. Lighting needs to be low key.
2. Proposals to improve pedestrian facilities are most welcome.
3. Need to retain existing landscaping along Higher Rd.
4. Noise and disturbance arising from music being played on the site.
5. We remain neutral in this application and do not believe that the proposed expansions will have any effect on high street business – this comment was from an existing Trader.
6. At first I thought that the size of the development was out of proportion for the location, but if major re-building is to happen anyway, it is perhaps best to make a unified and well-designed plan which develops the site once and for all rather than needing further disruption for expansion in five or ten years' time. The existing structures are rural for certain, but not attractive or coherently planned, with considerable amounts of wasteland.

General appearance: If the buildings are of broadly agricultural appearance and set down sufficiently low not to be a blot on the landscape (or be obtrusive to the existing dwellings on the north side of Higher Road), that will help.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy considerations, retail impact, economic development issues.
2. Scheme design, impact on the character, appearance and visual amenities of the area.
3. Transport & movement Issues.

4. Impact on the living conditions of nearby residential properties (Higher Road).
5. Other matters.
6. Planning balance.

1. Policy considerations, retail impact, economic development issues.

The Government's commitment to a "plan led" planning system is apparent throughout the National Planning Policy Framework (NPPF). Paragraph 2 acknowledges the statutory presumption in favour of the development plan in section 38(6) of the Planning and Compulsory Purchase Act 2004, and the status of the NPPF as another material consideration.

A snap shot of local and national policy that is relevant to determination of the application is set out as follows: Sections 83 -84 of the Framework set out considerations in relation to maintaining a prosperous rural economy, and sections 85 -90 set out consideration in relation to ensuring the vitality of town centres. The aims and objectives of the Framework are largely reflected in Local Policies DM16, DM17, DM19 and DM20. Furthermore policy COR18 of the Core Strategy appropriate supports rural uses, such as appropriately scaled retail development. Policy COR1 seeks to manage development so that it meets sustainability objectives including enhancing the self-sufficiency and vitality of communities, providing settlements with a vibrant mix of flexible and compatible uses and providing access to jobs.

In planning terms Garden Centres do not fit neatly within any single land use category and usually comprise a mix of uses that can include retail (A1 use class), cafe/restaurant (A3 use class) in addition to the plants/nursery related products and associated garden and outdoor related merchandise.

The applicant operates another garden centre in Launceston which operates selling a range of goods and services, including a range of comparison and non comparison retail goods. The applicant has recently acquired the application site, and this application has been submitted to update and improve the offering from the site given that the current buildings are dilapidated. Furthermore the overall operational basis of the centre is not reflective of current garden centre retail trends.

As outlined above the applicant proposes to expand the offer at the site (to include some non-traditional garden centre merchandise) with new premises which are fit for purpose. The application follows pre-application discussions, and from the onset the applicant has expressed clear aspirations to develop an offer which attracts customers from a larger catchment area than the currently as reflected by the application scheme. At the onset it was clarified to the applicant that the LPA would need to be satisfied that their proposals in terms of the increase in floor space and the nature of the sales to be undertaken at the site, would not affect the protected retail areas in the district, in particular Crediton High Street.

The planning history for the site in relation to the garden centre is set out above. Following an approval in 1993 for a shop and café on the site, the layout and site coverage as of today reflects the terms of planning permission granted in 2003 and 2004. However having assessed the plans as approved and the controls imposed by the conditions there is no direction and/or control that the LPA could impose on the range of goods sold from the covered and uncovered floorspace at the site, and based on this calculation the net additional floorspace could be considered as only a marginal increase as reported by the applicant (approximately 315 square metres). However this comparison relies on using all the existing space across the site, irrespective of whether it is covered and/or uncovered and or formally used at present.

Irrespective of the above conclusion, given the new covered floor space exceeds 500 square metres, the applicant has been requested to submit an impact assessment in order demonstrate compliance with policy DM17. The section below overviews the conclusions reached by the applicant consultant as a result of this study:

At paragraph 4.3.1 the report provides an assessment of the effect of the proposed extension to Crediton Garden Centre on Crediton town centre. The main trade draw impact of Crediton Garden Centre expansion will be on other garden centres, which generally occupy out-of-centre locations in the catchment area, and, to a lesser extent, on DIY and general stores, which are predominantly located at out-of-centre retail parks or stand alone stores. There are no known similar committed or planned investments in centres across the catchment. Furthermore, given the large format and external sales area requirements of garden centres and DIY stores it is considered highly unlikely that such proposals will come forward in the centres over the next five years.

At paragraph 4.3.2 the report considers that the estimated turnover of the proposed Crediton Garden Centre redevelopment represents a very small fraction of the available comparison goods expenditure and projected turnover in the catchment area. Analysis of the likely pattern of trade draw across the catchment indicates that there will be minimal impact on the vitality and viability of centres in the area. The main impact will be on existing garden centres and other stores, which occupy out-of-town locations, and on retail parks in and outside the catchment area and are not protected through local or national town centre and retail policy.

In the main body of the report the other garden centres that are referred to are Orchard Nurseries (Exeter), Bernaville, Bow Garden Centre, Tuckers in Crediton, Springfield 'Devon' Bonsai Nursery and other DIY stores. Whilst not listed by the applicant there was a garden centre in Eggsford which at the time writing is no longer trading.

In terms of re-direction of spend from Crediton High Street, the study confirms that if 10% of the Garden Centre turnover applicant comes from the High Street then that would equate to a reduction of approximately 1% of expenditure from the Town Centre.

The report also confirms that the application scheme would create a number of employment opportunities at the site (estimated 80 jobs).

The Economic Development Team supports this application for remodelling and modernisation of the Crediton Garden Centre at Barnstaple Cross on the following grounds:

Business Need: The application is for the redevelopment and extension of an existing garden centre. There is a clear business need to update and expand the current facilities at the garden centre if the business is to remain competitive in the current market. Compared to their nearest direct competitors, the facilities at the Crediton Garden Centre are outdated and do not meet the expectations of modern consumers. The redevelopment will facilitate growth and will help to safeguard the future of the business and the jobs it creates.

Impact on local businesses: The development will create an increased retail area. We would support a restriction on the range of goods to be sold to minimise the impact on other local retail businesses. Without an effective restriction on the sale of general goods there is real concern that the development could have a negative impact on the vitality and viability of the town centre. As long as the retail offer remains largely gardening and other related outdoor products it is likely to only have a limited impact on local businesses.

The main direct competitors to Crediton Garden Centre are Bernaville Nurseries at Cowley and Bow Garden and Aquatic Centre in Bow. Bernaville Nurseries is unlikely to be affected significantly because of its proximity of the large population centre of Exeter. Bow Garden

and Aquatic Centre may possibly be affected by the redevelopment, but Bow has a complimentary offer focusing on water features, aquatic plants and fish.

In Crediton, Mole Avon Country Stores will be offering a garden centre element in their retail offer at their new site opposite Wellparks. In the town centre Mole Avon offer a clothing outlet and Adams offer a limited range of gardening and outdoor products as part of their general hardware offer.

Given an effective restriction on the A1 uses it is our view that the garden centre will have a limited impact on Crediton town centre, and provides variety and legitimate competition to other comparable businesses in the area.

Employment: If the garden centre achieves anything close to the estimated 10-fold increase in employment from 8 to 80 employees referenced in the supporting retail statement at 3.2.3, it will be a substantial increase to the number of local jobs. However, it is likely that the majority of these will be low paid retail posts. Given the historically low unemployment rate in Mid Devon, there may be real difficulty in recruiting to these posts locally, and those currently unemployed may need more support to access these opportunities.

Benefits for the wider economy: The remodelling and refurbishment of the site could create a destination attraction which will appeal to customers and visitors from a wider geography than the garden centre's current customer base, particularly from the Exeter area. This could have benefits to the wider economy as customers from Exeter and beyond may be inclined to stop in Crediton and use the town centre's other facilities.

For these reasons, and particularly if the A1 use can be effectively restricted, and subject to other planning considerations, we would support this application.

Summary: The application proposes a significant alteration to the proposed business model and premises arrangement for site providing updated and modern premises. The net internal sales area is proposed at 6397. The improvements to the site are considered to be a benefit given the outdated trading model and premises that are currently on site. The proposals will create new employment opportunities and could secure wider benefits to the local economy if customers from a wider catchment area visit the site. However if the entire sales space was utilised for retailing non-traditional garden centre products and merchandise the application scheme would be at odds with the objectives of a number of development plan policies, including COR15, DM16, DM17 and DM20. However subject to imposing a condition restricting the amount of floor space that can be used for the sale of convenience, fashion, clothing, footwear goods and any food /drink related products to no more than 500 square metres, the requirements of policy DM 16 and DM17, and the other policies referred are considered to have been met. Furthermore a condition restricting the use of the restaurant /café so that it is only used as an ancillary use to the garden centre is also recommended (refer to conditions 13, 14 & 15).

2. Design, impact on street scene (the A377) and the character and appearance of this part of the Countryside.

Although the site does not sit as part of a protected landscape, the site is visible in both distant and close up views from the south west and directly from the A377. To the north (i.e. from Higher Road) the buildings are largely screened by the roadside planting.

The site as it currently presents to the A377 presents as a disjointed arrangement of poly tunnels and glass houses set back across the top part of the site. The additional strip of land adjoining the area which has historically accommodated the garden centre comprises an overgrown field area and a row of conifers, historically screening and separating the two

sites. These trees have been removed with some preliminary levelling across the site. Historically the sites have presented as appearing slightly unkempt.

Clearly the changes as proposed will present a noticeable change in terms of the visual appearance of the site, most noticeably from the A377 with the new entrance leading through to the car park area and the change to the format of buildings across the site. As described above the new built complex is designed in 3 sections to reflect the uses: café/restaurant, sales/merchandising area and warehouse. The applicant has submitted an appraisal of the visual change from a number of key viewpoints (5), with a computer generated image of the application scheme superimposed over a photograph of the site currently.

A description of the application scheme is set out above, and the impact of the new built form has been managed by excavating across the site (maximum of up to 5.0 metres) to create the development footprint for the built form and also the new customer car park. The proposed staff car park is accessed from Higher Road and to be provided at the existing level, with a stepped arrangement providing access down. This has meant that although the building form stands 7.0 metres to ridge level, the massing sits below the skyline to the north and below the existing Higher Rd roadside landscaping. Additional landscaping will help screen the part of the new development footprint from the south. The most prominent aspect of the proposed new built form will be the exposed walling below the café terrace which will present directly to the highway. Further details of this aspect will be required by condition given its importance in landscape impact terms. Overall as reflected in the visuals it is considered that the new form sits comfortably within the site area without appearing visually assertive and/or detrimental to the character and appearance of this part of the Countryside.

In summary, given the current situation at the site, whilst the applicant introduces a significantly different built form, reflecting on the mitigation provided by the excavation and new landscaping the proposals are considered acceptable in terms of form, scale and layout. The colouring and choice of the materials, including the curtain wall glazing for the long section of the café/restaurant building, will further help soften the appearance of the new building. Overall it is considered that the application scheme is satisfactory in terms of testing it against the policy requirements of policy COR2/DM2 of the development plan.

3. Transport & Movement Issues.

The applicants have submitted a Transport Assessment to support the application which has informed the assessment of the application.

The site is currently served by Higher Road which provides the only point of pedestrian and vehicular access to the site. There is a bus stop at Barnstaple Cross so technically there is a public transport link although pedestrian access from the bus stop to the site access is considered very challenging.

The proposal includes the following off site highway improvements:

It is proposed to provide a new vehicular / pedestrian access to the site along the southern boundary onto the A377. This will be in the form of a priority T-junction with a right turn lane, designed to allow vehicles turning right into the site to queue without blocking vehicles travelling west along the A377 towards Barnstaple. In order to provide the new access and right turn facility, the section of A377 at the point where the new access is proposed will be widened to incorporate the changes and provide appropriate visibility splays. This new access will remove the need for the majority of larger servicing and delivery vehicles from travelling along Higher Road.

A new bus layby is proposed on the northern carriageway edge of the A377, adjacent to the proposed new site access point. Internal footway will link the site entrance to footway provided on either side of the access and to the north of the new bus layby. This will accommodate public transport users travelling to the site from the North West (Coplestone and beyond).

A new section of 1.8m footway will be provided from the proposed site access point onto the A377 to the newly proposed access point onto Higher Road. In addition at the Barnstaple Cross junction, tactile paving will provide a crossing point to new footway on the southern carriageway edge of the A377 and will continue to extend west towards the existing bus stops situated to the west of the Barnstaple Cross Junction. This will accommodate public transport users travelling to the site from the south east (Crediton and beyond).

243 car parking spaces are proposed, with 193 laid out in the new car park served by the A377. Cycle parking can be provided on site in the form of Sheffield racks. In addition the applicant has prepared a travel plan for use by staff to encourage sustainable travel methods to travelling to work at the site.

Notwithstanding whether or not the gross amount of useable space at the site is largely comparable to that as existing, the proposed change to the pattern of use as proposed by the application is likely to generate more traffic on the highway. The detailed analysis as undertaken by the applicants consultant and as set out in the Transport Assessment concludes that that the proposed remodelling and modernisation of the Garden Centre, reflecting on the new access arrangements and off site highway improvements will not generate an adverse increase in vehicular movements, therefore allowing for the free flow and safe movement of traffic along the surrounding highway network.

As stated above the Highway Authority do not raise any technical objections to the application in terms of highway safety and highway capacity issues subject to imposing a number of conditions. On this basis the application is considered to comply with policy COR9.

4. Impact on the living conditions of nearby residential properties

There are a number of residential properties along Higher Road. At present the amenities of these occupiers are affected by vehicles arriving and departing at the site along Higher Road. A significant amount of traffic will be removed from Higher Road given the new access from A 377, and this arrangement is considered beneficial for these residents.

Given that the new building complex is set down on the site, although the building form and heights are larger than the existing buildings they would not result in any issues of overlooking and/or overshadowing as they would still to be set down behind the screening provided by the road side planting. A relevant condition is recommended to ensure that the planting as existing is retained in order to manage this relationship.

A condition is also recommended regards any future lighting requirements at the site, in order to ensure that the scheme of illumination does not result in any light spill that may affect amenity for existing residents.

Reflecting on the fact the site is already operational, it is not anticipated that the proposed development would have an unacceptable effect on the privacy, amenity and/or the general living conditions of the occupiers of the residential dwellings on Higher Road, and any other neighbouring property within the vicinity. On this basis the application is considered to be in accordance with relevant part of policy DM2 (e).

A condition requiring a construction management plan to be submitted is recommended to manage the impacts of the construction process.

5. Other matters

Policies DM2 and COR11 of the Adopted Local Plan confirms developments will not be supported if they would increase the risk of flooding, nor will they be supported if Sustainable Urban Drainage Systems (SUDS) or other similar appropriate measures are not undertaken.

Following initial concerns from the Lead Local Flood Authority regards the increase in hardscape across the site and the resultant levels of surface water drainage the applicants have submitted further information which addresses the objection, subject to further details being submitted and approved (refer to conditions 9 –12).

The site is in a sensitive location from an archaeology point of view. Therefore a condition is recommended to require further archaeological work/analysis to be undertaken.

6. Summary and Planning Balance

This planning application proposes a significant change to the business model to be undertaken at the existing Crediton Garden Centre site which is located at Barnstaple Cross in an open Countryside location, including a café/restaurant. In order to accommodate this change a significant redevelopment of the site is proposed, replacing the older style building, poly tunnels and glass houses with a bespoke building complex incorporating an integral area for warehouse space. The effect of the building proposals is to provide formal covered sales space in a retail type environment served by a new customer car park accessed from the A377. Notwithstanding the significant change to the overall scale and massing created by the new buildings, it is managed across the site in a sensitive manner utilising the fall across the site from Higher Rd down to the A377, and therefore is considered an appropriate design response given the site's context and relationship with the neighbouring residential dwellings in particular along Higher Road.

Public opinion about the proposed changes for the site are split and whilst there is a lobby of support concern has also been expressed on a number of grounds, including how the application will affect the vitality and viability of the Crediton High Street and also other Garden Centre operators within and outside of the District. The High Street is protected in planning policy terms, and conditions are recommended to restrict the amount of the new floor space that can be used for the sale of convenience, fashion, clothing, footwear goods and any food /drink related products in order to seek to protect the ongoing vitality and viability of those retail outlets along the High Street. However there is no policy provision to manage and/or check any potential trade diversion from existing garden centres.

From a general economic development point of view, concerns have been expressed that the application proposals may result in job losses for staff currently employed at other garden centre in and beyond the district boundary. The stakeholders who have made these comments have requested that these matters be considered in conjunction with considering the economic benefits of the scheme in terms of the numbers of jobs that would be created (estimated to be upto 80) and the potential economic spin off for the Town resulting from new patterns of trade which may flow from visitors to the Garden Centre also stopping off at the High Street.

The assessment of the application has not raised any concerns in terms of Highway safety, or capacity issues and/or in terms of managing surface water drainage requirements of the new site which includes a larger area of hardscape that as existing.

In summary and on balance the application scheme is recommended for approval subject to the conditions and reasoning as set out below.

CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. All planting, seeding, turfing or earth re-profiling as set out on the soft landscape plan as shown on drawing 211 hereby approved shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

4. Prior to commencement of any development on the site, a Construction Management Plan (CMP) part of the site shall have been submitted to and approved in writing by the Local Planning Authority to include the following matters:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Once approved the details shall be complied with at all times during the implementation of the planning permission.

5. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and drainage have been provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority and retained for that purpose at all times.

6. In accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

7. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority for approval.

8. The scheme of development hereby approved shall not be open to customers until the off-site highway works for the provision of a footway from Barnstaple cross junction to the existing west bound bus stop and from the junction to the east bound bus stop have been implemented in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority.

9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy (Ref. Proposed Development at Crediton Garden Centre; dated July 2018).

10. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water run-off from the construction site.

11. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

13. The scheme of development hereby approved shall not be open to customers until a plan showing the net retail sales area of the new covered retail space at the site as shown on the approved drawings and not exceeding 3,336 square metres has been submitted to and approved in writing by the Local Planning Authority.

14. The scheme of development hereby approved shall not be open to customers until a plan showing the area of the internal floor space to be used for the sale and display of convenience goods, fashion goods, clothing and footwear and food or drink related products (excluding those sold from the café/restaurant) and which shall not exceed 500 square metres has been submitted to and approved in writing by the Local Planning Authority. Once approved the floor plan details shall be complied with at all times.

15. The restaurant/café area hereby approved shall only be operational as an ancillary use to the use of the site as the Crediton Garden Centre, and shall only be open for trade during the openings hours of the Garden Centre hereby approved, and at no other times unless specifically approved in writing by the Local Planning Authority.

16. The proposed scheme of lighting both internally and external to the buildings, across the car park and other open areas of the site shall be submitted to and approved in writing by the local planning authority prior to opening of the building for the approved use.

17. Further details of the new walling and boundary treatment to the A377 shall be submitted to and approved in writing by the local planning authority, prior to the commencement of works in relation to the construction of the new buildings on the site. The approved details shall be maintained as such thereafter.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that the development makes a positive contribution to the character and amenity of the area, and safeguards the amenities of the existing residential occupiers along Higher Road, in accordance with policy DM2 of Local Plan Part 3: (Development Management Policies).
4. To ensure that adequate facilities are provided for all traffic attracted to the site during the construction period in the interest of safety and amenity to all road users.
5. To ensure that adequate facilities are available for the traffic attracted to the site.
6. In the interest of public safety and to prevent damage to the highway.
7. To ensure that adequate information is available for the proper consideration of the detailed proposals.
8. To minimise the impact of the development on the highway network in accordance with paragraph 32 of NPPF.
9. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
10. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

11. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
12. To ensure, in accordance with the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) that an appropriate record is made of archaeological evidence that may be affected by the development.
13. In accordance with the details as submitted and to maintain control of the use of any floor space hereby approved for A1 retail activity in the open countryside in order to prevent harm to the vitality and viability of Crediton town centre and other villages in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies).
14. To maintain control of the use of any floor space hereby approved for A1 retail activity in the open countryside in order to prevent harm to the vitality and viability of Crediton town centre and other villages in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies).
15. To prevent harm to the vitality and viability of nearby town centre in line with policy DM17 and DM19 of the Mid Devon Local Plan Part 3 (Development Management Policies), and to protect the amenities of the surrounding area in accordance with DM2.
16. To protect the amenities of the surrounding area in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
17. To protect the visual amenities of the surrounding area in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The site is located in the open countryside where policy COR18 applies. In summary the policy seeks to protect the open countryside from inappropriate development. Policy DM19 permits retail development in the open countryside, provided that it is in a location and of a scale that would not harm the vitality and viability of town centre or village shopping facilities, would not lead to an unacceptable impact on the local road network; and would not result in an unacceptable adverse impact to the character and appearance of the countryside. Policy DM20 - Rural employment development - advises that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Policy DM 19 - development outside of Town Centres requires the vitality and viability of Town Centres to be protected. In the determination of this application, consideration has been given to the type and use as submitted and its location away from any other town or village shopping facilities.

In this instance it is not considered that an expansion and modernisation of this established garden centre would adversely affect the vitality or viability of Crediton or the surrounding villages subject to imposing a restriction on the amount of floor space that can be used for the sale and display of convenience goods, fashion goods, clothing, footwear and food or drink related products. In addition the economic benefits in terms of increased employment in the locality have also been taken into account. The proposal has been considered in terms of its impact on highway safety and whether the design is suitable for this rural location. With conditions relating to landscaping, highway matters, drainage and controls over the future uses of the proposed floor space, the application scheme considered to comply with policies COR1, COR2, COR4, COR9 and COR18 of Mid Devon Core Strategy 2007, and policies

DM1, DM2, DM8, DM17, DM19, DM20 and DM27 of Local Plan Part 3 (Development Management Policies).

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. 18/00915/MFUL

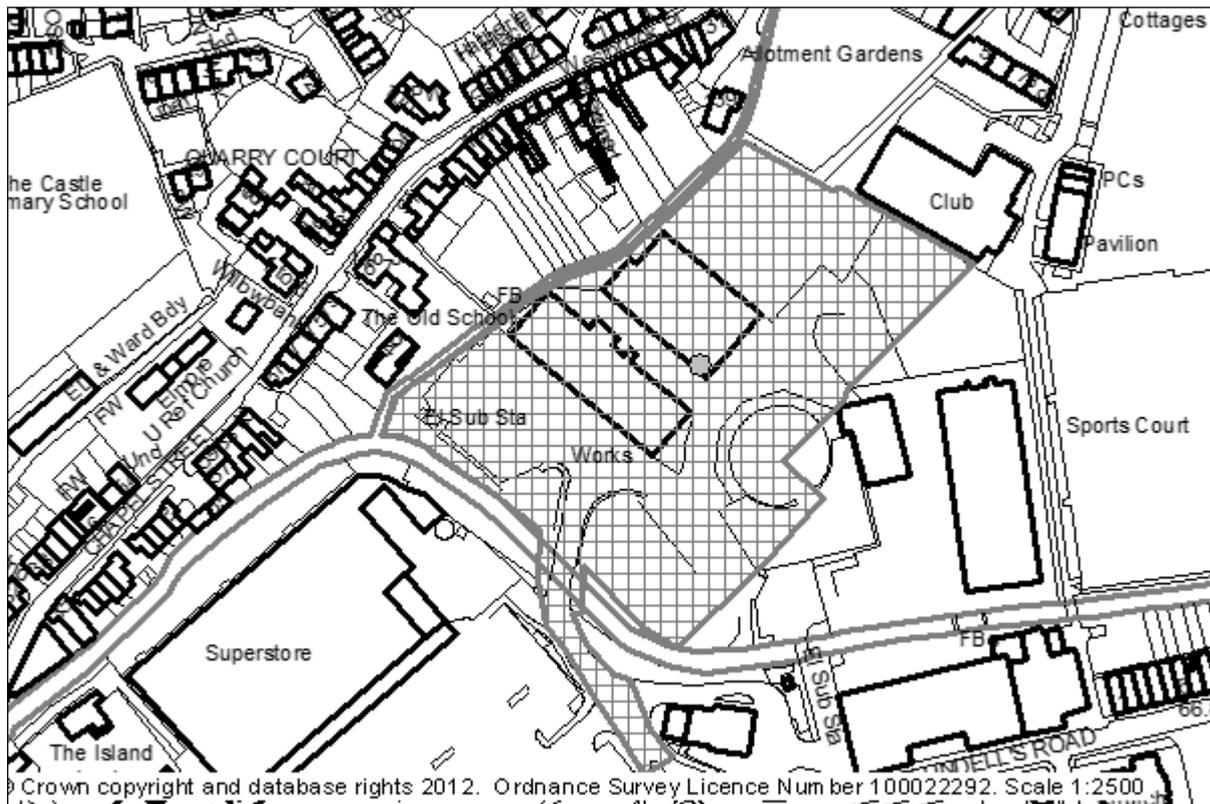
Grid Ref: 296037 : 112822

Applicant: Miss K Butcher, Lidl UK

Location: Foundry Estate
Blundells Road
Tiverton
Devon

Proposal: Erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings

Date Valid: 27th June 2018



APPLICATION NO: 18/00915/MFUL

MEMBER CALL-IN

This planning application has been called in by Members as a result of discussions held on planning applications appearing on the majors list.

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement to provide the following:

- £13,000.00 – Towards works identified by the Tiverton EUE to come forward at an earlier trigger time due to the impact of the development on the Heathcote away roundabout and Lowman way roundabouts
- £30,000.00 - Tiverton Shop Front Enhancement Scheme
- £30,000.00 - Tiverton Town Centre Public Wi-Fi Project
- £10,000.00 - Public Realm Improvements (signposting and seating)
- Inclusion of the Travel Plan

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings. In brief the application is for a food store having a gross ground floor area of 2125 sqm with net sales area of 1325 sqm within (80% for convenience goods sales and 20% comparison goods sales) and a non food (bulky goods) unit which would be 1964 sqm arranged over ground and mezzanine floors. This would be one single unit restricted to the sale of the following bulky comparison goods:

- Furniture
- Floorcoverings
- Electrical goods and domestic appliances
- DIY & hardware
- Gardening goods
- Motor parts and accessories

The two existing buildings on site would be demolished and replaced by these two new buildings which would have white rendered walls with shop front and entrance areas being a feature curtain walling (double height glazing panels in grey powder coated aluminium frames) with the roof of the food store unit being a composite panel monopitch roof. The Lidl food store would be approximately 70m by 31m and 7m high whereas the non food store would be approximately 59.5m by 24.5m and 8.5m high having a mezzanine floor within. Mitigation works are proposed to address any flood risk issues which includes profile work to the existing embankments along the northern boundary of the site resulting in the widening of the channel.

APPLICANT'S SUPPORTING INFORMATION

Completed Application Form, Site Location Plan, Site Plans and Proposed Plans
Proposed Boundary Treatment and Site Finishes
Landscape Plan
Arboricultural Report
Tree Protection Plan
External Lighting Plan
Demolition Plan
Design and Access Statement
Planning & Retail Assessment
Flood Risk Assessment
Phase 1 & 2 Geotechnical Investigation/Contamination Reports
Transport Statement
Travel Plan
Ecological Appraisal
Conceptual Surface Water Drainage Strategy
Foul Sewage & Utilities Statement
Waste Management Statement
Energy Usage and Sustainability Statement for Lidl Store and Non-Food Retail Unit
Community Involvement Statement

RELEVANT PLANNING HISTORY

10/01572/FULL - PERMIT date 26th November 2010
Removal of Condition (2) (Working Hours) of planning permission 10/00552/FULL

10/00552/FULL - PERMIT date 2nd June 2010
Removal of Condition (3) (Occupation of the building for B8 (Wholesale & Distribution) limited to Lowman Manufacturing Company) of planning permission 01/01080/FULL

08/01137/FULL - PERMIT date 11th August 2008
Variation of Condition (11) of planning permission 07/02023/MFUL to raise the floor level by 200 mm

07/02270/FULL - PERMIT date 23rd January 2008
Erection of temporary offices (B1 use class) for one year

07/02023/MFUL - PERMIT date 10th January 2008
Erection of B1, B2 & B8 industrial units following demolition of 2 storage buildings

05/02786/FULL - PERMIT date 27th February 2006
Erection of security lighting

05/02056/FULL - PERMIT date 7th November 2005
Temporary siting of 4 no. portacabins, adjacent storage yard and ancillary parking area

01/01080/FULL - PERMIT date 3rd October 2001
Use of building to include B8

97/00109/FULL - PERMIT date 18th March 1997
Installation of petrol interceptor into existing drainage run

94/01351/FULL - PERMIT date 16th September 1994

Renewal of temporary permission no. 4/52/91/762 for the stationing of 3 No. portable office buildings

91/00762/FULL - PERMIT date 7th June 1991
Temporary consent (3 years) for the siting of three portacabins

79/00486/FULL - PERMIT date 4th May 1979
Erection of a paint spray shop (810 sq ft)

78/00078/FULL - PERMIT date 3rd March 1978
Erection of a compressor house east of the existing foundry

77/01284/FULL - PERMIT date 20th October 1977
Extension to foundry to provide offices, laboratory, toilet block and additional plant house

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities
COR2 – Local Distinctiveness
COR4 – Meeting Employment Needs
COR6 – Town Centres
COR7 – Previously Developed Land
COR8 – Infrastructure Provision
COR9 – Access
COR11 – Flooding
COR12 – Development Focus
COR13 – Tiverton

Mid Devon Allocations And Infrastructure Development Plan (Local Plan 2)

AL/IN/1 – Community Infrastructure Levy
AL/IN/2 - Development Without Community Infrastructure Levy

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High Quality Design
DM3 – Sustainable design
DM4 – Waste Management
DM6 – Transport and Air Quality
DM7 – Pollution
DM8 – Parking
DM16 – Town Centre Development
DM17 – Development outside Town centres
DM21 – Protection of employment land
DM27 – Development affecting Heritage Assets
DM28 – Green Infrastructure in Major Development

CONSULTATIONS

Tiverton Town Council – 17th July 2018 - Support

The Historic Environment Team D.C.C – 9th July 2018

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets. The Historic Environment Team has no comments to make on this planning application

Highway Authority – 26th September 2018

Observations:

The Highway Authority has reviewed the application and has received the additional amended traffic analysis requested of the developer. The Highway Authority would raise no objection to the development and the Local Planning Authority are advised to condition the car parking design and site layouts. The development will impact on the Heathcoat Way roundabout and Lowman way roundabouts in future years and are likely to require the works identified by the Tiverton EUE to come forward at an earlier trigger time and may require a design change. Therefore the Highway Authority would seek through an appropriate legal agreement under the Town and Country Planning Act contribution to the said works commensurate with the increased traffic as a pro rata sum with that of the Tiverton EUE contributions and a figure of £13,000.00 is sought. In addition the travel plan should be secured through the same legal agreement

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that the following conditions shall be incorporated in any grant of permission

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Public Health – 25th September 2018

Initial response from Public Health was received on the 25th July 2018 whereby it was noted that in terms of issues relating to contaminated land, further information was required in order to review the implications of the proposed build on the contaminated land mitigation already undertaken for the TESCO's development. With respect to noise and other nuisances - A BS 4142 (2014) noise assessment was required as the proposed development will create noise from fixed plant/machinery and from deliveries and collections which may affect nearby noise sensitive receptors. In addition to this, details of the external lighting and the proposed hours when the lighting would be switched on were required. A lighting engineers report was required including a layout plan with beam orientation, details of horizontal and vertical illumination including light levels within the site, car park, at the site boundaries, 50m outside of the boundary of the site and a schedule of the equipment in the design.

Following the submission of further information including a lighting plan the response from Public Health was as follows:

Contaminated Land - Awaiting further information

Air Quality - No objection to this proposal

Environmental Permitting - No objection to this proposal

Drainage - No objection to this proposal

Noise & other nuisances - No objection to this proposal

Housing Standards - No comment

Licensing - May need a premises licence so advised to contact licensing 01884 255255 or licensing@middevon.gov.uk

Food Hygiene - No objection to this proposal

Informative: If food or drink is provided, stored, processed this is considered a food business. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.

<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>

Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/> .

Private Water Supplies - Not applicable

Health and Safety - No objection to this proposal.

With respect to the initial concerns relating to noise and land contamination issues the following responses were received:

I've reviewed the noise data supplied by Inacoustic for the Lidl stores. I do have concerns with regards to the potential noise impact from deliveries during night-time hours. I do not believe that the proposed noise mitigation measures have reduced the noise levels from LGV night-time deliveries to an acceptable level at the nearest noise sensitive dwelling. Therefore, in terms of noise I would make the following recommendation:

Deliveries or collections of goods to and from the stores including the collection of packaging, waste or other items shall only take place between the hours of 7am and 10.30pm Monday to Saturday and 8 am - 9 pm on Sundays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Public Health – 22nd October 2018

Recommended approval with conditions:

Prior to commencement of any development, the applicant shall carry out an investigation aimed at identifying the nature, extent and impact of the proposed build on the groundwater flow. The current groundwater flow is a key factor in the remediation works undertaken for the adjacent Tesco's site development. This involves the use of permeable reactive barriers in order to catch and clean any contamination as it moves within the groundwater flow.

The investigation must evaluate the impact of the Lidl development focusing on how the development may influence/impact or change the direction of the groundwater flow. Any change within the groundwater flow may have a knock-on effect by reducing the efficiency of the Tesco's permeable reactive barriers.

Further investigations are required to determine the presence, use, condition and contents of the two underground tanks along with any remediation works/decommissioning works required.

Further investigations are required to determine the levels of methane gas on site. The resulting assessment will allow for the calculation and correct design specification of the ground gas protective measures for the buildings and utilities pipework.

Where actual or probable significant pollutant linkages are found following the investigation, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

Following completion of any works, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

Reason: In the interests of building integrity and public safety

Natural England – 26th July 2018

Natural England has no comments to make on this application.

Devon, Cornwall & Dorset Police - 13th July 2018

Having spoken with both the architects and applicant, Police have no objections. Please note the following information, initial advice and recommendations from a designing out

crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-
Agreed in principle:-

- Continue the perimeter fence to the building line of the non-food store to prevent unauthorised access along this side of the building and into the rear service yard.
- Incorporation of a lockable barrier / gate at the service yard entrance point, enhanced with a bollard on the footpath adjacent to the food store to prevent rounding the gate/barrier, if required could be secured when the store is closed to prevent potential misuse of the car park for example, by groups with cars gathering. This is not altogether uncommon problem for car parks elsewhere in Mid Devon and can arise at any time. I would ask that incorporation of a suitable barrier be considered as a condition of planning to secure the service out of hours and thereby reduce likely incidents of crime, disorder and anti-social behaviour.

General advice:-

Consideration to be given to the installation of lockable gates/barriers to the 2 customer car parks.

It does appear to be shown, but it should be ensured that the glazed store frontage is protected against possible vehicle attack this could be achieved through appropriately located bollards/planters etc.

The external glazing is advised to comprise at least one pane of laminated glass. External doors and windows are recommended to be independently security tested and certificated products to an appropriate nationally recognised standard such as PAS24:2012, PAS24:2016 or similar.

I am assuming the car park will be appropriately lit at night when the store is open?

The store must be protected by a monitored intruder alarm compliant with current Chief Police Officer Group guidelines.

I am assuming the store will have CCTV internally. I would recommend that consideration is given to any CCTV system also covering the car parks and rear service yard. This would help deter crime but can also be very useful in terms of crime investigation, for example, identifying vehicles being used by persons suspected of shoplifting or other crimes.

Conservation Officer – 10th October 2018

As you are aware, there are a number of listed buildings on Chapel Street, to the north of the site, two of which have a common boundary with the site. To the east of these, there is a further listed building (No 79), and the listed United Reform Church on the North side of Chapel Street, which is on raised ground. To the North of the church and adjacent to it, is the Tiverton Conservation area, which is further raised up, and is at this point the playing field to the school. To the south of the site by approximately 400m, is the Grand Western Canal Conservation area, which is on raised ground with views to the north over Tiverton. The wharf contains the listed lime kilns which also act as the revetment for the canal.

As you are aware we have a statutory duty to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66 of the LB Act). This is supported by the NPPF which also requires to consider the setting of conservation areas: case law indicating that both must be given considerable weight and importance.

The NPPF requires that the applicants for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should have been

consulted and the building assessed using appropriate expertise where necessary. When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset). This application has no information or statements in regard to heritage assets. This is an unfortunate oversight.

My quick assessment that the listed buildings on Chapel Street currently back onto an industrial site with two large modern industrial buildings. The position and size of the new buildings would be such that the impact on the significance and appreciation of the listed buildings would be neutral, with the two to the west some improvement with the building being replaced by the car park. There are views from the church through the gap in the buildings across the road, and I would suspect from the school playing field, but again this is a neutral to minor improvement.

The elevated position of the wharf at the end of the canal and the high wall of the lime kilns allow extensive views over Tiverton. The effect of these new buildings, in the context of the existing would be neutral, but given the large size of the buildings, and the green and brown tonal range of the roofs of Tiverton, the large metal roofs of these new buildings should be a dark colour, as is the case with the two large existing buildings on site.

Flood and Coastal Risk Management Team – 21st November 2018

An initial objection was received on the 16th August 2018 with concerns that the proposals would not conform to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. Following on from this, further information was submitted with the following response received.

Observations:

Following my previous consultation response FRM/MD/00915/2018, dated 03/10/18, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Letter from Jonathan Morley at RPS Group ref 181009 L JER1273 JM dated 9th October 2018

The applicant has confirmed that the underground storage will be used solely for the purpose of surface water attenuation and not for fluvial flood compensation. In light of this, we have no objection to the application. We recommend that the attenuation tanks should comprise sealed tanks due to the location of the site in Flood Zone 3.

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Letter from

Jonathan Morley at RPS Group ref 181009 L JER1273 JM dated 9th October 2018, and Flood Risk Assessment ref JER1273 dated August 2018 Lidl Food Store Tiverton.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for

Environment Agency – 21st November 2018

An initial objection was received on the 13th September 2018, with concerns raised on the potential increase in third party flood risk, risk to life and risk to building with advice provided relating to sequential test requirements, compensatory flood storage and potential alternative design requirement. Another concern related to ground contamination and the risk of pollution to controlled waters. Further to the submission of additional information the latest response from the Environment Agency is as follows:

Thank you for your email of the 12 November 2018 consulting us on the following documents:

18_00915_MFUL-Boundary_Treatment_Plan-1444770

18_00915_MFUL-Email_string_with_PO_Agent-1444769 (1)

18_00915_MFUL-Response_to_Environment_Agency_dated_11_11_18-1445138

18_00915_MFUL-Site_Plan-1444772 with Moorhayes boundary

Environment Agency position

The information submitted has satisfied most of our previous concerns regarding the flood risks associated with this proposal. However, prior to determination of this application we require further information to be submitted on the access from the application site to the access ramp on the River Lowman to demonstrate that the future access provision will be feasible.

Reason – access to the River Lowman

We currently access the River Lowman, with plant, by the access ramp shown on the attached photograph and we require unobstructed access at all times for inspection, maintenance and emergency works. The development must not result in a dis benefit in terms of our ability to exercise this access requirement. We note and welcome the proposed provision of a 'FUTURE ACCESS' on the southern boundary of the 'NON FOOD RETAIL CAR PARK' as shown on drawing AD 114 – Rev B 'PROPOSED BOUNDARY TREATMENTS' dated 09.11.18. However, we need to ensure that the final levels of the proposed car park area where the access gate will be sited and the route through the land to the south will have an appropriate gradient. Prior to determination of the application we require a plan to be produced that shows the access route through the car park, the presence of an access gate, splays and current/proposed levels so that we can appraise the suitability of the position and level of the proposed 'FUTURE ACCESS' in relation to our existing access ramp. The attached word document shows the current levels. Once the feasibility has been demonstrated we would be seeking the final access details to be secured by planning condition. Please note that this may involve off-site works. Once this matter is resolved we advise that the following conditions are also considered necessary to be included on the planning permission.

Condition – flood corridor improvements Moorhayes Stream

Prior to the commencement of development the final details of the proposed flood corridor improvements as shown on drawing AD 114-Rev* Proposed Boundary Treatments shall be submitted to and approved in writing by the LPA. The scheme shall be fully implemented as approved during the initial ground-works phase of the approved development.

Reason: To improve flood flow conveyance.

Advice to LPA - Moorhayes Stream flood corridor improvements

Following our meeting with the applicant and your Authority on the 23rd October 2018 we are very pleased that the principle of providing an enhanced flood corridor adjacent the Moorhayes Stream, as indicated on the submitted Drawing AD 110 – Rev B 'PROPOSED SITE PLAN' dated 08.11.18, has been put forward. We note that corridor improvements are not proposed opposite the sub-station near the confluence of the River Lowman. We consider that there is scope to provide minor river corridor improvements at the far downstream extent thus optimising the performance of an improved corridor.

The initial findings of the model runs, as contained within RPS's document dated 11th November 2018, which in effect appraises the scenario of providing an improved river corridor to the south of the Moorhayes Stream, are very encouraging and are to be welcomed given the predicted reduction in flood risk to numerous residential properties in the vicinity of Chapel Street and Siddalls Gardens.

We consider that the final details in terms of the exact form, width and level of river corridor improvements could be secured by planning condition. However, for the avoidance of doubt, we advise that Drawings AD 110 – Rev B ‘PROPOSED SITE PLAN’ dated 08.11.18, and AD 114 – Rev B ‘PROPOSED BOUNDARY TREATMENTS’ dated 09.11.18, be revised to show an extended enhanced river corridor between the sub-station and the confluence of the River Lowman prior to determination of the application.

Condition – Access to the Moorhayes Stream

Prior to the commencement of development hereby approved details of a scheme to replace the existing access steps to the Moorhayes Stream shall be submitted to and approved in writing by the LPA. The scheme shall be fully implemented as approved during the initial ground-works phase of the development.

Reason: To provide access to the Moorhayes Stream for the purpose of flood risk management.

Advice to LPA and applicant – access to the Moorhayes Stream

Environment Agency Field Staff currently gain access to the Moorhayes Stream via a set of steps opposite the existing sub-station as shown on the attached photo. We need to ensure access to the stream is retained following the creation of the flood corridor and built development. We are happy for these details to be secured by planning condition.

Advice to LPA - Boundary treatments

We welcome the proposed location of the boundary fences along the northern boundary of the proposed development Ref DRAWING AD114-REV B ‘PROPOSED BOUNDARY TREATMENTS’ as they are set back from the proposed river corridor improvements and thus would not hinder the flow of water (as is the case currently).

Advice to LPA and applicant - Emergency planning

We advise that the Hazard Maps be revised in light of the provision of an improved river corridor so that your Authority’s Emergency Planners can make an informed decision regarding the applicant’s Flood Evacuation Plan. We take this opportunity to state that whilst we endeavour to provide at least 2 hours warning of impending flooding there is no absolute guarantee that we can, especially on this rapidly responding watercourse.

Advice to LPA and applicant - risk of property flooding

The proposed layout of the development would risk internal flooding to both the proposed store and the adjacent non- food retail unit. It is our understanding that acceptance of internal flooding of the proposed Lidl store is a commercial decision by the applicant. We advise that the applicant informs potential leaseholders of the non-food retail unit of the risk that internal property flooding would pose. Importantly, the leaseholders would also need a Flood Evacuation Plan (FEP) if the building is not included in the Lidl’s store FEP.

Advice to LPA and applicant - Groundwater and contaminated land

We have reviewed the updated position of your Authority’s Public Health Specialist, Ian Winter. We would consider that the management of risks to controlled waters can be dealt with via planning conditions. The development could potentially have an impact on the PRB in multiple ways and consequently we would suggest amending the draft wording of the second paragraph of the proposed condition as follows:

‘The investigation must evaluate the impact of the Lidl development focusing on how the development may influence/impact the function of the PRB’. The investigation report also highlights the potential risk of mobilisation of contaminants of potential concern via the use of piling. It should be demonstrated that any proposed piling will not result in contamination of

groundwater or mobilisation of contamination within groundwater. Consequently, the following condition is also recommended:

Condition - piling

Piling using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect controlled waters.

Advice to applicant and LPA

The investigation reports have identified areas of contamination within soils, made ground and alluvial material on site which pose a potential risk to groundwater and surface waters. The assessment completed concludes that these materials pose a low risk to controlled waters based on the groundwater monitoring completed. However this appears to be based on a single round of monitoring and further works are recommended to provide confidence in the characterisation of groundwater quality on the site.

Any works within 8m of the Moorhayes Stream boundary will require a Flood Risk Activity Environmental Permit from the Environment Agency prior to commencement of works given the status of the watercourse as a 'main' river.

REPRESENTATIONS

Through the planning process 4 letters of objection, 485 letters of support and 2 letters of general comment have been received. The objections to the proposed development are summarised as follows:

- Concerns to late night deliveries as at the moment there is substantial noise from Tesco (after 10pm) with the lorry doors/ ramps slamming, banging. Would it be possible to propose a curfew on delivery lorries to reduce the late night noise pollution?
- It has been noted that other open car parks are often used late at night as social hubs for car enthusiasts, this results in loud music and exhausts, wheel spins etc. which will impact detrimentally on the amenity of occupiers of neighbouring property.
- This area is prone to flooding whereby further development in the area will worsen the situation unless improvements are made to the current drains, and a regular dredging schedule agreed for the stream at the rear of the site, which exits into the Lowman.
- From the layout proposed, access/egress arrangements to the adjoining site of MST Ltd is unacceptable and will need to be changed.
- Whilst land ownership issues might not normally be considered as material planning issue, in this instance because the issues would appear to have a serious impact on the operation of an existing business on an adjoining site, it is directly relevant to the decision making process.
- The increased competition posed could well lead to closures elsewhere in the town, and, before the application is decided, the likely impact should be carefully considered as well as the need for such an outlet. MDDC should commission their own independent study assessing the impact of this large development on the town centre and other businesses in the urban area.
- A previous application, 03/05594/FULL by Lidl for a food store in Kennedy Way was refused Planning Permission. Reasons for refusal include: 'The need for the development has not been demonstrated, the development is well away from the town

centre, is not close to residential areas and the impact on the town centre's vitality and viability has not been demonstrated etc.'

- An application 11/01198/MFUL by Tesco's for a mezzanine floor sales area selling non-food items including furniture was withdrawn after considerable opposition because of its likely detrimental effect on town centre businesses, letters of objection including one from Simon Banbury, fearing the impact on his business, perhaps Tiverton's key retail outlet.
- The site being considered for this development is allocated for Class B employment use, and its development as a large A1 retail outlet would significantly reduce the land available in Tiverton for Class B uses.
- The number of empty shops in the Town Centre has increased steadily, especially in what can be called 'zones of discard' in the western end of Fore Street and the northern end of Bampton Street. One of the reasons for this is the shift of the focus of the town centre towards Tesco, and this would surely be exacerbated by yet another large retail development outside the town centre.
- The viability of the Londis store in Market Walk has been problematical for some time in recent years and the long-term future of the Marks and Spencer's store, while it is not on the company's present list of closures, must remain problematical. The future profitability of both could be threatened by the new planned Lidl store.
- The proposed non-food bulk goods store could have a negative impact on the town centre which includes many comparison goods outlets, including the sale of furniture, floor coverings and electrical goods, all of which are planned for the new store. If planning consent is granted, the type of goods sold should be tightly conditioned.
- Question the findings of the Planning and Retail Assessment in relation to the overall impact figure for the Class A1 retail sector in Tiverton town centre which is too low.
- The estimated 12.4% loss of trade by Tesco, and a 7.8% loss by Morrison's, to the new store must also be considered: over-provision in the food store sector throughout the urban area could result in further negative impacts.
- Planned housing developments, such as the Eastern Urban Extension are already several years behind schedule, so any significant population increase in the town is unlikely to occur for at least twenty to thirty years, meaning that the need for further retail capacity in the foreseeable future is at present questionable.
- At the recent consultation carried out for the Tiverton Town Centre Regeneration Masterplan the representative strongly agreed that their vision would be handicapped by both the present plans for a Lidl store, and by the proposal supported by MDDC for a Designer Outlet Village near Junction 27.
- The Tiverton Conservation Area, which includes the town centre, is classified by Historic England as 'Heritage at Risk' and 'deteriorating'. The problems can only worsen if more retail outlets close, leading to the deterioration of the fabric of buildings, as well as its decline as a tourist attraction.
- The NPPF stresses that the vitality and viability of town centres should be promoted with reference made to Paragraph 26.
- Assessments are required to be undertaken in accordance with MDDC Policy DM17
- There will be an increase in traffic to this area resulting in air and noise pollution.
- Additional traffic vibration could impact on nearby residential property.
- Could Blundells Road be made one-way between MST and Westcars thus still allowing empty delivery traffic to leave the superstores via Blundells Road?

The grounds of support are summarised as follows:

- The proposal will bring more employment to the area
- The site is located close to the existing major road network with a good eastern road access already in place.

- Tiverton is expanding rapidly (in the Prescott area and the Eastern Urban Extension) and needs more retail choice and diversity.
- The increase in population expected for Tiverton could support an additional major supermarket
- The proposal would bring more people back into the town through increased footfall
- It will stimulate healthy competition between the existing supermarkets in the Town which is lacking helping to keep prices down.
- A low cost competitor will allow people on a budget to save money on their shopping
- It will reduce the need of residents to travel to Exeter or Minehead to visit their next nearest Lidl store or to Cullompton for a similar alternative store saving on travel costs and pollution
- The retail store will help regenerate the town, attracting more business which is needed in Tiverton.
- From a commercial point of view, it is likely to bring more trade into the town, something the Council has been encouraging through various initiatives of its own and clearly supports. It is unlikely to harm the interest of the established specialist /independent retailers
- The site is situated in a commercial area and would represent a good land use
- The site is within walking distance to residents
- The proposed store being located next to Tesco will minimise any potential increase in traffic in the vicinity.
- In the current climate there is a need to support High street and out of town retailers.
- The proposal will be a strong benefit in an area with relatively low wages and a large proportion of elderly / retired residents on low incomes.
- The development would improve the appearance of this area.
- The development will follow on from the foot of Gold Street, through Tesco's and on to Lidl's, effectively extending the town centre's retail area. (An improved 'gateway' / retail development in the area of the police station would help to lead shoppers in that direction – perhaps something to consider in the town's improvement plan.)
- Notwithstanding the proximity of the development to Gold Street, the generous parking provision and proximity to the A396 and Blundells Road will provide easy road access to the new store for the many residents of outlying villages, who use Tiverton as their nearest retail centre.
- Lidl is one of the fastest growing retail shops in the country for a reason - because it is very good
- It will enhance the attraction of Tiverton as a shopping destination
- The proposed store will be accessible by people using the Stagecoach number 1 bus route and for those that are able to walk from the bus station.
- There will be little, if any, adverse impact on residential occupiers
- It would provide an addition company for the council to collect rates from
- The returns policy and warranty on goods by the applicant exceed the minimum stipulated in current U.K. law.
- Has Lidl or the MDDC considered providing pedestrian only access to the site via the narrow footpath which leads from the old school flats on Chapel Street to the Chinese takeaway next to 143 Chapel Street and if Lidl would consider funding these footpath improvements in return for potential increase in footfall?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application seeks permission for the erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings. The application site is approximately 1.5 hectares and comprises two buildings, one being vacant and the other occupied by Stenner who have

plans to relocate to other premises within Tiverton with access being from Blundell's Road to the south. The site is within the settlement limits outside of any landscape designations but is not located within the defined Tiverton Town Centre, the boundary of which is located to the west. In terms of walking distance, the site is just less than 220 metres from the town centre boundary with the site surrounded by other commercial and industrial uses. There is a Tesco Superstore adjacent to this site to the south west.

The material considerations in assessing this application are:

- 1. Policy**
- 2. Provision of retail units on site and impact on the Town Centre**
- 3. Loss of employment land**
- 4. Transport, access and parking issues**
- 5. Flooding, drainage and site contamination**
- 6. Design and appearance of development and visual impact on the landscape**
- 7. Living conditions of the occupiers of nearby residential properties**
- 8. Ecology**
- 9. Impact on Heritage Assets**
- 10. S106 Obligations and local finance considerations**
- 11. Sustainable development balance**

1. Policy

The NPPF sets out the Government's planning policies for England and it sets out a presumption in favour of sustainable development. It sets out the three objectives to sustainable development which are economic, social and environmental and seeks positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life. Since the introduction of the NPPF in 2012 and its revision in 2018, full weight can continue to be given to policies in Local Plans adopted in accordance with the Planning and Compulsory Purchase Act 2004. These policies are those in the Mid Devon Core Strategy (LP1), the Allocations and Infrastructure DPD (LP2) and those within the Local Plan Part 3 Development Management Policies. Less weight can be given to policies that are considered out of date (i.e. not adopted in accordance with the Planning and Compulsory Purchase Act 2004), particularly where these policies are in conflict with the NPPF.

It is considered that this development should be assessed in terms of policies COR1, COR2, COR4, COR6, COR7, COR8, COR9, COR11, COR12 and COR13 of the Mid Devon Local Plan Part 1 (Core Strategy). COR1 (Sustainable Communities) stresses the need for development to meet sustainability objectives, Policy COR2 seeks development which will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, Policy COR4 (meeting employment needs) states that employment space in Mid Devon is covered by Use Classes B1 (business), B2 (general industry) and B8 (storage and distribution), COR6 (Town Centres) states that new shop uses should contribute to the vitality and viability of Town Centres and should only be permitted outside of the town centre where there is a need and they meet the sequential test set out in national policy, COR7 (Previously Developed Land) seeks to guide development towards the most sustainable locations available, COR9 (Access) aims to reduce the need to travel by car and increase public transport, COR11 (Flooding) outlines the need ensure that development does not increase flooding to properties elsewhere, COR12 (Development Focus) states that development should be concentrated at Tiverton where of an appropriate scale and Policy COR13 further deals with development within the settlement of Tiverton.

With regard to the Development Management Policies, Policy DM1 picks up on sustainable development principles, Policy DM2 requires design of new development to be high quality

and demonstrate a clear understanding of the characteristics of the site, its wider context and surrounding area and create attractive places. Policy DM3 focuses on sustainable design of a major commercial development whereas Policy DM4 deals with waste management. Policy DM6 relates to transport and air quality considerations for any development and Policy DM7 outlines the assessment required on pollution. Policy DM8 states the required parking levels for a use, Policy DM16 covers town centre developments and Policy DM17 on development outside of town centres. Policy DM21 deals with the protection of employment land, Policy DM27 outlines the assessment required for development which affects heritage assets and Policy DM28 focuses on green infrastructure.

An assessment of the proposed development is carried out in line with the above policies through the rest of this report.

2. Provision of retail units on site and impact on the Town Centre

Policy DM17 states that the Council will apply a sequential approach to planning applications for main town centre uses. Edge of centre proposals must be well related to the town centre and accessible by public transport, walking or cycling. Proposals in these locations must also demonstrate that no suitable sites are available in a more sustainable location. The Council will also require an impact assessment to be submitted for any proposals for retail and leisure development outside of town centres where the proposed gross floorspace would exceed 500 square metres.

The impact assessment must include an assessment of:

- i) The impact of the proposal on existing, committed and planned public and private investment in the town or other centres in the catchment area of the proposal; and
- ii) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made, or ten years in the case of major development, taking into account the cumulative impact of recently completed developments, planning permissions and development plan allocations.

The assessment above is in line with the requirements outlined in the NPPF whereby if a proposal is likely to lead to a significant adverse impact then it should be refused. NPPF published in July 2018 indicates (paragraph 11) there is a presumption in favour of sustainable development. Planning permission should be granted for sustainable development unless any adverse impacts significantly and demonstrably outweigh the benefits of the proposals. NPPF (paragraphs 86 to 90) retains the town centre first policy, the sequential approach to site selection and impact tests. The NPPF (paragraph 89) indicates that impact assessments are required for applications for retail and leisure development located outside of town centres and not in accordance with an up to date plan. Paragraph 89 of the NPPF suggests, where there is no locally set floorspace threshold within an up to date development plan, retail impact assessments will only be required for retail developments of 2,500 sq.m gross or more. The gross floorspace of the development proposals is 4,089 sq.m gross, which exceeds the NPPF impact threshold.

The proposed Lidl store is expected to have a gross floorspace of 2,125 sq.m with a net sales area of 1,325 sq.m. The bulky comparison good store is 1,964 sq.m gross (1,571 sq.m net sales). The planning application has therefore been accompanied by a Planning and Retail Statement prepared for the applicants by GVA. With respect to the sequential test and the assessment of alternative sites/premises, GVA outline that these alternatives were identified through, a land use survey of the town centre, allocated sites in the development plan, sites proposed to be allocated in the Local Plan Review and sites identified in the draft Tiverton town centre masterplan. Therefore the assessment was made to sites at Phoenix

Lane, St Andrew's Street; Pannier Market area; William Street; Blundell's Garage; Bampton Street and vacant units in the town centre.

GVA noted that the application site is just over 300 metres walking distance from Tiverton town centre's defined primary shopping area with the conclusion made that there are no suitable and available sequentially preferable alternatives to the application site with evidence to suggest that whilst the application site may be classified as an out of centre location, there are likely to be linkages between the site and the town centre area. With regard to the potential impact of the proposed convenience and comparison goods floorspace on the health of, and investment within Tiverton town centre the conclusion was that the proposed retail floorspace will not have a significant adverse impact upon the health of Tiverton town centre and that the proposed retail floorspace will not have a significant adverse impact upon existing planned or committed investment in Tiverton town centre.

Lichfields were commissioned by Mid Devon District Council to undertake an independent review of the retail elements of this planning application. With respect to the conclusions, on the matter of retail impact, the conclusion was stated as follows: *'The applicant has prepared a proportionate retail impact assessment. The main issues raised by our analysis relate to the expected turnover of the proposed development and the pattern of comparison goods trade diversion. The highest levels of impact fall on out of centre stores, which is not a planning consideration. The key issue is the impact on Tiverton town centre.'*

The applicant estimates the impact on Tiverton town centre's retail facilities is -1.8%. Lichfields' sensitivity analysis suggests a slightly higher level of impact at -2.5%. Based on Lichfields' figures, Tiverton town centre is still projected to be trading +12.7% higher than the base year 2018 turnover (£80.48 million compared with £71.4 million). Trade diversion and impact is expected to be offset by expenditure growth between 2018 and 2023.

It is unlikely town centre food stores or comparison shops would be forced to close based on this reduction in turnover. The impact on Tiverton town centre is not considered to be significant.

Given that the impact assessment is based on a discount food store and a bulky comparison good retail unit, planning conditions should be considered if the Council is minded to grant planning permission. The maximum amount of floorspace could be restricted to prevent the provision of mezzanine floors and the sub-division of units should be controlled.

The maximum level of Class A1 retail floorspace should be restricted to 4,089 sq.m gross, of which not more than 1,060 sq.m net should be devoted to convenience good sales floorspace, as tested by Lichfields. The conditions should indicate that the retail floorspace should not exceed these limits including the installation of mezzanine floors. The comparison goods unit should be restricted to sell only bulky comparison goods i.e. DIY, home improvement and gardening products, carpets and floorcoverings and electrical goods.'

With regard to the sequential approach to potential sequentially preferable sites within or on the edge of Tiverton town centre, the analysis undertaken indicated that none of existing vacant units within the Town Centre are large enough or suitable to accommodate the application proposals with the largest vacant unit being only 310 sq.m. The conclusion of Lichfields was that *'The applicant has adopted a high degree of flexibility and has disaggregated the application proposals, although this is not required by the NPPF. Only two town centre sites appear to be physically capable of accommodating the proposed development: Phoenix Lane (Southern Gateway) and Pannier Market area. The application proposals do not appear to be consistent with emerging masterplan proposals and illustrative designs for these two areas, and on this basis these sites could be discounted as unsuitable. It is unclear whether alternative development proposals would be acceptable in*

these areas. Given that both areas have active uses it is unlikely these two sites can be made available within a reasonable period of time, even if a large retail store format of development was considered acceptable by the Council. Based on the information available these sites can be discounted. Based on the evidence provided the sequential approach has been satisfied.'

The findings of Lichfields are accepted by officers and therefore in light of the above, it has been concluded that there are no sequentially preferable sites within Tiverton Town Centre or edge of centre as none of the sites that complied with the applicant's size requirements are/or are likely to be made available within an acceptable time scale. It is also concluded that the development would not result in a significant detrimental impact on the town centre vitality and viability. As a consequence, the proposed development meets the provisions of the sequential test as set out in the NPPF and policies DM17 and COR6 of the development plan.

3. Loss of employment land

Whilst the site is located on an area used by general industrial uses, the site in question is located adjacent to a number of commercial uses and close to residential properties and not within an allocated general industrial estate. Contact has been made with the Economic Development team within Mid Devon District Council who have commented that they are generally supportive of an application for a change of use of this nature, noting the relocation of the existing business on site to alternative premises in Tiverton.

Whilst the proposal would represent the loss of an industrial use on site, it is considered that there is a sufficient range of suitable and available employment sites in the local area and it is noted that the commercial use proposed would generate employment opportunities. Whilst the end user for the non food retail unit is unknown at present, with respect to the food store proposed, it has been stated within the application form that there would be 15 full time and 25 part time workers. As such, the proposed development would not be contrary to Policy DM21.

4. Transport, access and parking issues

The existing access arrangement onto the site would be utilised and proposed parking for the proposed uses on the site are considered to be acceptable with 190 parking spaces outlined on the submitted plans which are considered acceptable under Policy DM8. The Local Highway Authority has raised no objections to the proposals noting that they have reviewed the application and have received the additional amended traffic analysis requested of the developer.

The site is accessible from public transport, walking and/or cycling. There is a bus stop close to the entrance of the Tesco Superstore and the position of the site is within walking distance of the town centre and all the services/facilities this offers. A Travel Plan is provided with this application outlining the measures to be taken to promote and encourage alternatives to single-occupancy car use by staff working at the site with all new staff to receive a travel pack.

The Highway Authority recommends conditions and that because the development will impact on the Heathcoat Way roundabout and Lowman way roundabouts in future years and are likely to require the works identified by the Tiverton EUE to come forward at an earlier trigger time which may require a design change, a S106 agreement needs to be entered into for a contribution to the said works commensurate with the increased traffic as a pro rata sum with that of the Tiverton EUE contributions resulting in a required financial contribution of £13,000.00. In addition the travel plan should be secured through the same legal

agreement.

An objection was raised by the occupiers of the neighbouring MST site due to access arrangements and the need for acceptable arrangements to ensure the long term viability of the adjoining business. Confirmation has been provided from the applicant that access to the MST site is via the area described on the site plan as 'service yard'. Under the proposal this area would significantly improve the current access arrangement to the site currently occupied by MST. A swept path analysis was provided within the Transport Statement which shows there is sufficient space for HGVs to service the loading bay and that given the large dimensions; HGVs can cross this area to enter the MST site. In terms of the access from the Non Food unit car park onto the retained land, the applicant explains that this access is provided as part of negotiations with the landowner to protect their options within this part of the land and that this access is not meant to be used by HGVs and it is understood that this land does not form part of MSTs demise. MST is being provided with an upgraded access to their site via the 'service yard' area. Therefore comments regarding safety of customers or impact on MSTs business would not be applicable as there is no HGV movement in this car park.

Therefore the access and parking arrangements are considered acceptable for this development and it is noted that bus stops are located within walking distance, as well as other services within the Town Centre. The development is considered to comply with policies COR9, DM2, DM8 and the requirements of the NPPF.

5. Flooding, drainage and site contamination

The application site lies within Flood Zone 3 being the most vulnerable zone with respect to flood risk. Policy COR11 outlines that the risk of flooding to life and property should be reduced where possible with development guided to sustainable locations with the lowest flood risk by applying a sequential test and to locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding and also ensure that development does not increase the risk of flooding of properties elsewhere. Policy DM2 requires appropriate drainage including sustainable drainage systems (SUDS) and connection of foul drainage to a mains sewer where available.

The applicant states within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage system. A Flood Risk Assessment was submitted with the initial response received from the Environment Agency and D.C.C Flood Risk being an objection mainly due to potential increase in risk to flooding to third party land and that additional information was required in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

With regard to the sequential test requirement, this is similar to the sequential test carried out for the retail assessment whereby a number of alternative sites were considered, a number being within flood zone 1 but which were ruled out for a number of reasons, particularly the two sites considered as viable alternatives. It is not considered that there are any other sites within the town centre or edge of centre, falling within an area with a lesser risk of flooding. Therefore the sequential test has been passed with the next consideration being the exception test. A number of mitigation measures are to be implemented with an evacuation plan to be put in place.

Meetings with the applicant and the Environment Agency (EA) were undertaken whereby it was identified by the EA that lowering of the proposed embankment parallel to the Moorhayes stream (north of the site that flows into the River Lowman) to a level equal to the existing public highways footpath would be an agreeable option. This would mimic the

approach taken by the adjacent Tesco store. Subsequent to the meeting RPS acting on behalf of the applicant ran a number of additional hydrological model scenarios based on a revised development layout, with revised levels along the bank of the stream reflecting that of the public footpath. They have commented that *'Results for a 1 in 100 year, 1 in 100 year plus 25% and 1 in 100 year plus 40% indicate a significant reduction in flood level ranging from 100mm to 200mm for residential properties upstream of the site, with a number of areas now assessed as being flood free. Flood risk for a wide area associated with commercial use downstream is also shown to be reduced by between 15mm to 60mm. The modelling does show a slight increase to a localised area downstream by 20 mm, with a very isolated area at increased risk by 45 mm.'*

The plans have been amended to show these mitigation measures with a betterment shown to flood risk in other areas. It is therefore considered that on balance the lowering of the embankment along the stream associated with the proposed development would provide a significant reduction to flood levels for a substantial area of Tiverton, benefiting a number of residential and commercial properties. The proposed arrangements are considered to be appropriate to address flood risk arising from the development. The Environment Agency has now commented that the amended plans satisfy most of their concerns with only further details required in respect of an access on the site. Conditions have been recommended which are included within the decision to approve.

Other matters raised by the Environment Agency of concern related to the acceptability of an escape plan but they have noted that this is a matter for the Council to consider. A Flood Evacuation Plan has been produced with principles incorporated into the stores emergency event strategies, whereby a full store evacuation can be actioned and completed within 10 minutes following alarm. The flood evacuation strategy would accord with the current and accepted fire evacuation plan, which has a target time of 2 minutes from the start of the evacuation which has proved to be achievable (Hampshire Fire and Rescue Service, September 2018). Updated hydrological modelling indicates that users would have around 2 hours to leave the site area and be escorted 50m to Tesco car park located within Flood Zone 1/low risk area. This evacuation plan is considered to be acceptable by emergency officers.

With respect to surface water drainage, following a detailed review of the proposed scheme the specialist consultants acting for the applicant have assessed that the use of underground storage as fluvial flood compensation would not adequately satisfy the Environment Agency's requirement to provide 'level for level' compensation. Therefore, it is proposed to 'repurpose' the underground storage for the attenuation of surface water run-off as calculated below.

'Greenfield runoff rates using industry standard MicroDrainage software for the site with results provided within Appendix 1. As a consequence of the reduction in flow rate RPS has also updated site attenuation storage calculations. The resulting attenuation volume required to restrict offsite flows to the calculated 4.7 l/s QBar greenfield rate of is approximately 1,836 m³. It is proposed that attenuation storage will be provided by two underground geocellular crate storage areas with a capacity totalling 2,013 m³ (855 m³ + 1158 m³), drawing RCEF60813-SK001. The outline scheme illustrates that there is sufficient storage capacity available in excess of the volume calculated for the worst-case storm event duration.' D.C.C Flood Risk as Lead Local Flood Authority has withdrawn their objection and has recommended a number of conditions to require surface water drainage details and flow rates are acceptable.

On the matter of land contamination reports were submitted with the only outstanding matter being from the concerns raised from the Public Health Department and the EA over the risk to pollution to controlled waters and relationship to the measures implemented in the Tesco

scheme. Having discussed the matter with Public Health, they are content for a condition in this instance to address this concern as it is more likely that further mitigation could be required or at the very worst a restriction on certain building techniques but this will depend on what the further assessment unearths. Therefore a condition is recommended by the Public Health Department which has been included within the recommendation and this approach is supported by the Environment Agency.

Subject to conditions the development is considered to comply with Policies COR7, COR11, DM2 and DM7.

6. Design and appearance of development and visual impact on the landscape

The proposal is for two retail units, one food and one non food unit which replace two existing industrial units on site. The main access will not alter onto the site but the position of the buildings on site would do with the parking area proposed to the south west side of the site with the buildings to run parallel to a service road located between the two buildings. The retail food building to the north side would be 7m high whereas the non food unit to the south of the service road would be 8.5m high with materials generally in keeping with the commercial area given the existing buildings in the vicinity such as the Tesco superstore.

There are works proposed to embankments to the stream to the north of the site to mitigate against flood risk with associated profiling and the boundary treatments around the site are to be a 2.1m high paladin fence with double gates along the service yard area and around the perimeter of the retail units (north and south) with 2.1m acoustic fence around the plant room in the north east corner of the site. A 1.1m high Visi Rail is proposed around the car parking area to the west of the site. Landscaping is also proposed around the edges of the site and parking area with a number of trees to be retained.

It is not considered that the proposal would have a significant detrimental impact on the landscape and on balance; it is considered that the design and layout of the commercial development would be acceptable in accordance with policies COR2 of the Mid Devon Core Strategy and policies DM2 and DM28 Local Plan Part 3 (Development Management Policies).

7. Living conditions of the occupiers of nearby residential properties

The NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. A number of concerns have been raised from nearby neighbours on the grounds of concerns over lighting, noise through late night deliveries and pollution from increased traffic movements. In terms of amenity levels, it is not considered that the removal of two industrial units with two retail units would result in any significant overlooking or overbearing impact given the overall heights, position of windows and separation distances involved. The main consideration comes from the layout proposed and the location of plant, service yards and parking areas and associated lighting.

The Public Health Department initially raised concern that the original submission lacked sufficient information to consider disturbance through noise and lighting. As a result an external lighting design statement and plans have been submitted which the Public Health Department considers to be acceptable and therefore a condition is included requiring the external lighting to be in accordance with the information submitted. In addition to this a Noise Assessment was carried out which has been considered to be acceptable.

The hours of opening are stated as being 07.00 – 23.30 Monday to Saturday and 10.00 – 16.00 on Sunday, with the Public Health Department requiring a condition for deliveries or

collections of goods to and from the stores including the collection of packaging, waste or other items to only take place between the hours of 7 am and 10.30 pm Monday to Saturday and 8 am - 9 pm on Sundays. The reason for this condition is to ensure that the proposed development does not prejudice the amenities of neighbouring properties. No other concerns have been raised from the Public Health Department in terms of air pollution, with conditions required for further surveys to address any land contamination and protect ground water flows. The proposal on the basis of inclusion of conditions is considered to comply with policy DM2 and DM7 of LP3 DMP.

8. Ecology

In order to provide the necessary information to the Council to demonstrate compliance with the ecological/biodiversity aspects of policies DM1 and DM28 of the Development Management Policies document, an Ecological Appraisal Report has been prepared which accompanies the application. The report is informed by an extended phase 1 habitat survey and has found no evidence of roosting of bats or nesting birds within the buildings, and no signs of badger activity. The site itself is considered to have limited value for bats and poor habitat for reptiles. However, the report indicates that the River Lowman provides a suitable habitat for otter and the scrub on the site is likely to support nesting birds. As a consequence, recommendations are also made in relation to vegetation clearance and removal of scrub areas in order to protect nesting birds and reptile habitat, along with other mitigation/enhancement measures. A condition is recommended for these mitigation/enhancement measures to be implemented as part of the development. Therefore subject to these conditions, the proposal would be in accordance with policy DM2 of the Local Plan Part 3 [DMP].

9. Impact on Heritage Assets

The application site is not located within the Conservation Area but there are a number of listed buildings on Chapel Street, to the north of the site, two of which have a common boundary with the site. To the east of these, there is a further listed building (No 79), and the listed United Reform Church on the North side of Chapel Street, which is on raised ground. The Council have a statutory duty to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66 of the LB Act).

Policy DM27 states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them.
- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of paragraph 133 of the National Planning Policy Framework are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use.
- e) Require developers to make a proportionate but systematic assessment of the impact on setting as set down in the guidance from English Heritage: "The Setting of Heritage Assets".

Paragraph 192 of the National Planning Policy Framework states that 'In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.'

An assessment was carried out by the Council's Conservation Officer with the note made that *'the listed buildings on Chapel Street currently back onto an industrial site with two large modern industrial buildings. The position and size of the new buildings would be such that the impact on the significance and appreciation of the listed buildings would be neutral, with the two to the west some improvement with the building being replaced by the car park. There are views from the church through the gap in the buildings across the road, and I would suspect from the school playing field, but again this is a neutral to minor improvement. The elevated position of the wharf at the end of the canal and the high wall of the lime kilns allow extensive views over Tiverton. The effect of these new buildings, in the context of the existing would be neutral, but given the large size of the buildings, and the green and brown tonal range of the roofs of Tiverton, the large metal roofs of these new buildings should be a dark colour, as is the case with the two large existing buildings on site.'*

The applicant is aware of the recommendation of the Conservation Officer to the roof colour and a condition is therefore recommended. It is considered that the buildings are of an acceptable scale and would result in less than significant harm to the heritage asset with the benefits of this development through employment generation and increased retail offer considered to outweigh any harm. The development is therefore considered to be in accordance with DM27 and the guidance within the NPPF.

10. S106 Obligations and local finance considerations

As a result of this development, in the event that Members are minded to approve this application a section 106 agreement would be required to provide for financial contributions towards the following:

£13,000.00 – Towards works identified by the Tiverton EUE to come forward at an earlier trigger time due to the impact of the development on the Heathcoat Way roundabout and Lowman way roundabouts

£30,000.00 - Tiverton Shop Front Enhancement Scheme

£30,000.00 - Contribution to Tiverton Town Centre Public Wi-Fi Project

£10,000.00 - Public Realm Improvements (signposting and seating)

The works to the roundabouts has been advised by the Highway Authority. In terms of the financial contributions towards Town Centre Improvements, specific projects are required to meet the tests in the CIL Regs (necessary, directly related and fair and reasonable to the 'impacts' identified). The assessment and conclusions raised within the Planning & Retail Assessment which accompanies the planning application were noted with an independent review of this assessment carried out by Lichfields. Whilst the main impacts were identified to the existing retail stores of Tesco and Morrison, smaller impacts whilst not significantly detrimental were identified as occurring to the Town Centre and therefore projects have been outlined to help result in benefits to the Town Centre to ensure the linkages between the development site and the Town Centre and improvements to the Town Centre Public Realm to encourage footfall back into the Town Centre.

11. Sustainable development balance

The NPPF sets a strong emphasis on the delivery of sustainable development. The development is considered to meet the tests required to prevent harm to the vitality and viability of the town centre with the site located within walking distance of the town centre and close to public transport and other services. The development is not considered on balance to result in significant harm to the environment, it would provide additional employment opportunities and offer more choice to consumers, thereby meeting economic and social objectives.

Other matters put forward in favour of the development include an absence of harm to ecology, visual amenity, highway safety and a limited impact on the living conditions of the occupiers of nearby residential properties. Mitigation measures are to be implemented to address flooding and drainage with some betterment in certain areas. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

CONDITIONS

As a result of this development, in the event that Members were minded to approve this application a section 106 agreement would be required to provide for the following:

Financial contributions of:

- £13,000.00 – Towards works identified by the Tiverton EUE to come forward at an earlier trigger time due to the impact of the development on the Heathcote away roundabout and Lowman way roundabouts
- £30,000.00 - Tiverton Shop Front Enhancement Scheme
- £30,000.00 - Tiverton Town Centre Public Wi-Fi Project
- £10,000.00 - Public Realm Improvements (signposting and seating)

Inclusion of the Travel Plan

And subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to commencement of any building works on the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and

the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

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

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

4. Before the commencement of any building works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

5. Deliveries or collections of goods to and from the stores including the collection of packaging, waste or other items shall only take place between the hours of 7 am and 10.30 pm Monday to Saturday and 8 am - 9 pm on Sundays.

6. Prior to commencement of any development, the applicant shall carry out an investigation aimed at identifying the nature, extent and impact of the proposed build on the groundwater flow. The current groundwater flow is a key factor in the remediation works undertaken for the adjacent Tesco's site development. This involves the use of permeable reactive barriers in order to catch and clean any contamination as it moves within the groundwater flow.

The investigation must evaluate the impact of the Lidl development focusing on how the development may influence/impact the function of the PRB or change the direction of the groundwater flow. Any change within the groundwater flow may have a knock-on effect by reducing the efficiency of the Tesco's permeable reactive barriers.

Further investigations are required to determine the presence, use, condition and contents of the two underground tanks along with any remediation works/decommissioning works required.

Further investigations are required to determine the levels of methane gas on site. The resulting assessment will allow for the calculation and correct design specification of the ground gas protective measures for the buildings and utilities pipework.

Where actual or probable significant pollutant linkages are found following the investigation, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

Following completion of any works, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

7. The development hereby approved shall be carried out in accordance with the mitigation and enhancement recommendations outlined within the Ecological Appraisal dated April 2018 and prepared by Devon Wildlife Consultants with the use of native/wildlife-attracting plant species in landscape planting schemes, installation of general purpose wooden or woodcrete bird boxes suitable for different species of birds into the buildings or trees proposed for the site and enhancement of any retained grassland areas by over-sowing and slot seeding with native wildflowers. Prior to occupation of the first retail unit, details of the position of bird boxes shall be submitted to and approved in writing by the Local Planning Authority with the development implemented in accordance with these approved details and maintained thereafter.

8. Prior to their use on site, details and/or samples of the materials to be used for all the external surfaces of the buildings shall have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.

9. The roof covering of the development hereby permitted shall be of a dark colour with final details of the colour to be used to be submitted to, and be approved in writing by the Local Planning Authority prior to its use on the building. The approved colour for the roof covering shall be so used and retained thereafter.

10. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and on site drainage infrastructure have been provided and maintained in accordance with details on the approved plans. Following their provision these facilities shall be so retained.

11. The Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use by staff working at the site as detailed within the submission document shall be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

12. The scheme for the illumination of the car parking area, service yard and other external areas within the application site for the development hereby approved shall be implemented in accordance with the External Lighting Design Statement produced by DDA and received on the 4th September 2018 prior to the retail units hereby permitted opening for trade with the general public and retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

13. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

14. Notwithstanding details as submitted allowing for changes to the embankment along the northern part of the site, all existing trees identified to be retained on the Tree Protection Plan, drawing no. 3026 TPP Rev A, shall be protected throughout the construction of the development hereby approved with protective barriers to be erected in the areas shown prior to construction works being undertaken on site. Any trees shown for retention that within a

period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

15. The maximum level of Class A1 retail floorspace approved by this development shall be restricted to 4,089 sq.m gross. The retail floorspace shall not exceed these limits including the installation of mezzanine floors other than those shown on the approved plans and no development shall take place in respect of Class A, Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

16. The net sales area of the food store hereby approved shall be limited to 1325 sq.m with convenience goods sold from the unit available from 80% of the net sales area with 20% of the net sales area available to sell comparison goods. For the avoidance of doubt this would require that not more than 265 sqm net should be devoted to comparison good sales floorspace.

17. Notwithstanding the details as submitted, the two retail units (Class A1) hereby approved shall trade as single retail units and shall not be subdivided into separate smaller retail units.

18. The comparison goods unit (non food) hereby approved shall have a net sales area of 1571 sq.m arranged over ground and mezzanine floors and shall be restricted to sell only bulky comparison goods as following:

- Furniture
- Floorcoverings
- Electrical goods and domestic appliances
- DIY & hardware
- Gardening goods
- Motor parts and accessories

19. No goods shall be displayed for sale in the car parking or landscaped (hard and soft) areas as shown on the approved plan without the prior permission of the Local Planning Authority.

20. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without notification), express planning permission shall be obtained for any development within Class C (change of use to Class A3 restaurants and cafes), D (change of use to Class A2 financial and professional services), G (change of use to a mixed use), J (change of use to Class D2 assembly and leisure) and M (change of use to Class C3 dwellinghouses) of Part 3 of Schedule 2 of the Order.

21. Prior to the commencement of the construction of the food store above floor slab level, a scheme detailing the type and location of any fixed plant and machinery to be mounted externally shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the opening of the store to the general public and retained thereafter.

22. Prior to the commencement of development the final details of the proposed flood corridor improvements as shown on drawing AD 114-Rev* Proposed Boundary Treatments shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented as approved during the initial ground-works phase of the approved development.

23. Prior to the commencement of development hereby approved details of a scheme to replace the existing access steps to the Moorhayes Stream shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented as approved during the initial ground-works phase of the development.

24. Piling using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

25. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Letter from Jonathan Morley at RPS Group ref 181009 L JER1273 JM dated 9th October 2018, and Flood Risk Assessment ref JER1273 dated August 2018 Lidl Food Store Tiverton. The surface water drainage system shall be constructed in accordance with the approved details and thereafter be so retained.

26. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site. The temporary surface water drainage system shall be constructed in accordance with the approved details and thereafter for the full period of construction.

27. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The surface water drainage management system shall be permanently maintained in accordance with the approved maintenance arrangements.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety and to safeguard the amenities of the occupiers of neighbouring property in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).
4. To safeguard the amenities of the occupiers of neighbouring property in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).
5. To ensure that the proposed development does not prejudice the amenities of neighbouring properties.
6. In the interests of building integrity and public safety.

7. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM2 of Mid Devon Local Plan Part 3 [Development Management Policies].
8. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with policy DM2 of the Local Plan Part 3 [Development Management Policies].
9. To ensure the colour of roof covering appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the listed church in accordance with Local Plan Part 3: (Development Management Policies) DM2 and DM27.
10. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with COR9 of the Core Strategy and Policy DM8 of Local Plan Part 3: [Development Management Policies].
11. In order to deliver sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking & cycling.
12. To safeguard the amenity levels enjoyed by the occupiers of the neighbouring dwelling in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
13. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM2 of Local Plan Part 3: [Development Management Policies].
14. In the interest of the visual amenity of the area in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).
15. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre, in accordance with policy DM17.
16. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre, in accordance with policy DM17.
17. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre, in accordance with policy DM17.
18. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre, in accordance with policy DM17.
19. To manage the retail sales element of the development and protect the visual amenities of the site in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).
20. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre, due to the position of the development close to other commercial uses and because the development is in Flood Zone 3, in accordance with policies COR11

Mid Devon Core Strategy LP1, policies DM2 and DM17 Local Plan Part 3 (Development Management Policies) and the NPPF.

21. To protect the amenities of the locality in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
22. To improve flood flow conveyance.
23. To provide access to the Moorhayes Stream for the purpose of flood risk management.
24. To protect controlled waters.
25. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
26. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
27. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

INFORMATIVES

1. The applicant should note that a premises licence will be required under the licensing Act 2003 if the sale of alcohol by retail is proposed. For more information please contact the licensing team via email licensing@middevon.gov.uk
2. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.
<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>
Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/>.
3. Depending on the age of the existing building there is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos
<http://www.hse.gov.uk/asbestos/>

If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

4. Devon Cornwall and Dorset police advise that consideration should be given to the installation of lockable gates/barriers to the 2 customer car parks. In addition to this, it should be ensured that the glazed store frontage is protected against possible vehicle attack this could be achieved through appropriately located bollards/planters etc. The external glazing is advised to comprise at least one pane of laminated glass. External doors and windows are recommended to be independently security tested and certificated products to an appropriate nationally recognised standard such as PAS24:2012, PAS24:2016 or similar. The store must be protected by a monitored intruder alarm compliant with current Chief Police Officer Group guidelines. Consideration should also be given to any CCTV system also covering the car parks and rear service yard. This would help deter crime but can also be very useful in terms of

crime investigation, for example, identifying vehicles being used by persons suspected of shoplifting or other crimes.

5. The above consent requires the submission of further details to be approved either before works commence or at identified phases of construction. To discharge these requirements will mean further formal submissions to the Authority on the appropriate forms, which can be completed online via the planning Portal www.planningportal.gov.uk or downloaded from the Planning section of the Mid Devon Council website, www.middevon.gov.uk. A fee may be required (dependent on the type of application) for each separate submission (if several or all the details are submitted together only one fee will be payable). Further details on this process are available on the Planning section of the Council's website or by contacting the Planning Unit at Phoenix House, Tiverton
6. Advice to applicant from Environment Agency – Access to the Moorhayes Stream
Environment Agency Field Staff currently gain access to the Moorhayes Stream via a set of steps opposite the existing sub-station as shown on the attached photo. We need to ensure access to the stream is retained following the creation of the flood corridor and built development. We are happy for these details to be secured by planning condition.
7. Advice to applicant from Environment Agency - Emergency planning
We advise that the Hazard Maps be revised in light of the provision of an improved river corridor so that your Authority's Emergency Planners can make an informed decision regarding the applicant's Flood Evacuation Plan. We take this opportunity to state that whilst we endeavour to provide at least 2 hours warning of impending flooding there is no absolute guarantee that we can, especially on this rapidly responding watercourse.
8. Advice to applicant from Environment Agency - Risk of property flooding
The proposed layout of the development would risk internal flooding to both the proposed store, and the adjacent non- food retail unit. It is our understanding that acceptance of internal flooding of the proposed Lidl store is a commercial decision by the applicant. We advise that the applicant informs potential leaseholders of the non-food retail unit of the risk that internal property flooding would pose. Importantly, the leaseholders would also need a Flood Evacuation Plan (FEP) if the building is not included in the Lidl's store FEP.
9. Advice to applicant from Environment Agency
The investigation reports have identified areas of contamination within soils, made ground and alluvial material on site which pose a potential risk to groundwater and surface waters. The assessment completed concludes that these materials pose a low risk to controlled waters based on the groundwater monitoring completed. However this appears to be based on a single round of monitoring and further works are recommended to provide confidence in the characterisation of groundwater quality on the site.

Any works within 8m of the Moorhayes Stream boundary will require a Flood Risk Activity Environmental Permit from the Environment Agency prior to commencement of works given the status of the watercourse as a 'main' river.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed erection of a food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings is considered to be supportable in policy terms. The development is not considered to impact detrimentally on the viability or vitality of the town centre with sequential tests met.

The retail use of the stores proposed will contribute to customer choice within the town of Tiverton with a limited impact on the existing traders. The development is also not considered to result in a detrimental impact on the character of the area or result in significant adverse impacts on amenity levels of occupiers of residential property. Having regard to all material considerations, it is concluded that the application does accord with the presumption in favour of sustainable development. When tested against Paragraph 11 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole, as well as being in accordance with Policies COR1, COR2, COR6, COR7, COR8, COR9, COR11, COR12 and COR13 of the Mid Devon Core Strategy [Local Plan Part 1] Tiverton and Policies DM1, DM2, DM3, DM4, DM6, DM7, DM8, DM17, DM21, DM27 and DM28 of the Mid Devon Local Plan Part 3 [Development Management Policies].

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. 17/02034/FULL

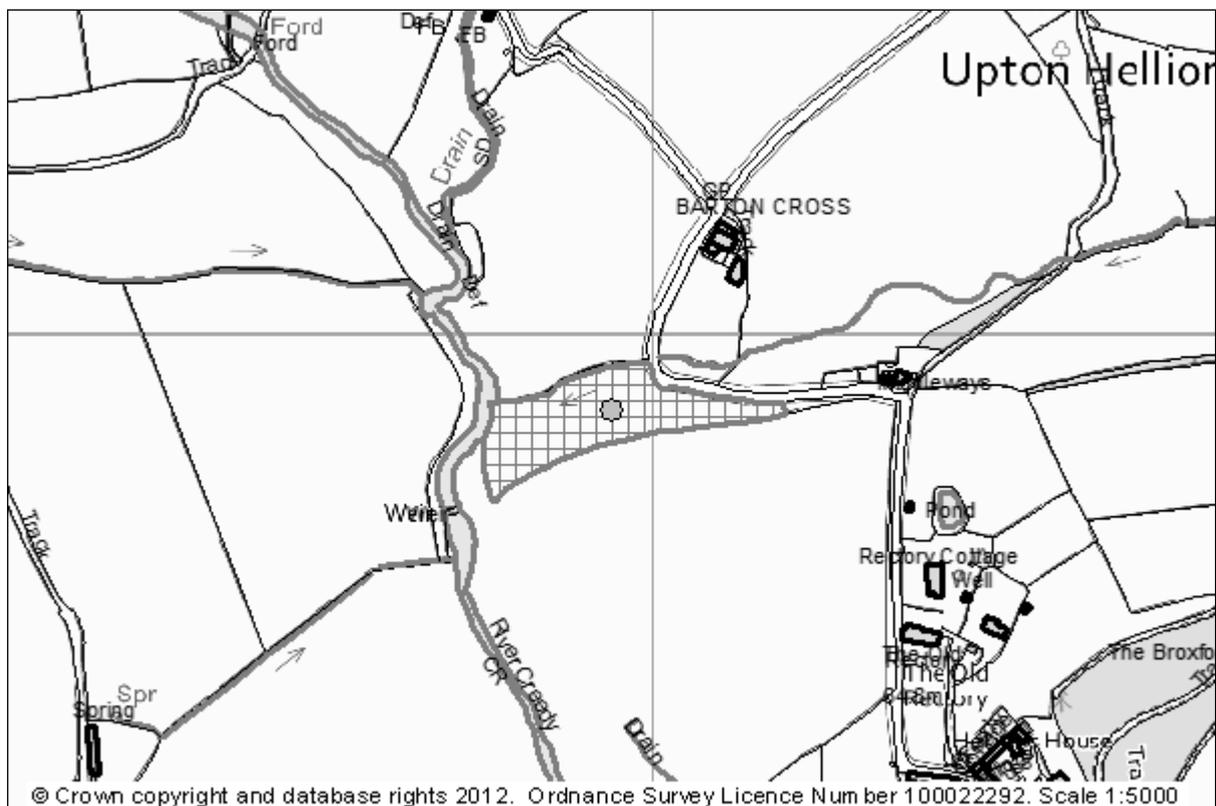
Grid Ref: 283959 : 102949

Applicant: Hawksdrift Ltd

Location: Land at NGR 283959 102949 (Barton Cross)
Upton Hellions
Devon

Proposal: Change of use of land for the siting of premises for falconry business and 1 associated dwelling

Date Valid: 10th January 2018



APPLICATION NO: 17/02034/FULL

MEMBER CALL-IN

Councillor Mrs M Squires has requested that this application be determined by the planning committee for the following reasons:

1. To consider the appropriateness of a permanent dwelling until business is established on site.
2. To consider the noise on the surrounding area.

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement:

1. Tying the dwelling to the relevant holding so that the land within the holding and the dwelling can be safeguarded as a single unit.
2. To provide a contribution of £1160.00 towards the provision of improvements to Play Area facilities including new adult exercise equipment at Sandford Play Area, Sandford

PROPOSED DEVELOPMENT

The application is for the change of use of land for the siting of premises for falconry business and 1 associated dwelling. The site area is 0.78 hectares, and comprises a single field area with a gated access from the public highway. The two buildings proposed are located just beyond the proposed access to site and are described as follows:

A single storey workers cottage which includes a working area including an incubator room with washing facilities, equipment drying and storage areas and visitor bathroom (53.5 square metres) and living quarters comprising a living room, kitchen /dining room, bedroom and bathroom (48.2 square metres).

Aviary building providing separate areas for worker birds and breeding birds (61.8 square metres).

Across the wider site there will then be a weathering, exercising and training areas for training/exercising the birds, an area to be planted up a wildflower meadow and an attenuation pond as part of the surface water drainage arrangements.

Originally the application included an area for quail coups but has since amended the scheme to remove this aspect of the development.

APPLICANT'S SUPPORTING INFORMATION

Completed application form and accompanying plans/drawings
Covering Letter, incorporating a number of appendices regards the operational nature of the existing business
Foul Drainage Assessment Form and Foul and Surface Water Drainage Strategy
Ecological Appraisal (and Report from Penny Anderson Associates Ltd)
Bat Activity report
Design and Access Statement

Falcon Noise Assessment

RELEVANT PLANNING HISTORY

17/02034/FULL - PCO date

Change of use of land for the siting of premises for falconry business and 1 associated dwelling

OTHER HISTORY

17/00215/PREAPP: A summary of the advice provide is set out below: In your pre-application submission you have provided some preliminary information about how long your clients company has traded, turnover levels nationally and specific to the south west region. You have also confirmed (in your report pack and as discussed on the site visit) the nature of the accommodation required both the commercial requirements and supporting residential requirements. Finally you have indicated a number of functional / animal care type reasons to justify a countryside location in terms of the business needs and to include an associated residential unit.

Based on this information I consider that an application on the site we viewed and/or elsewhere in the open countryside could be supportable in policy terms by DM10 and DM20. If you proceed to making an application, the LPA would as part of the assessment process need to determine what level of future control regards the occupation of the residential accommodation would be necessary and justified (i.e. control by condition or by legal agreement).

DEVELOPMENT PLAN POLICIES

Core Strategy (July 2007)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR18 - Countryside

Allocations and Infrastructure Development Plan Document (October 2009)

AL/IN/3

The Provision and Funding of Open Space Through development (SPD).

Development Management Policies

DM1 – Presumption in Favour of Sustainable Development

DM2 – High quality design

DM8 – Parking

DM10 – Rural Workers Dwelling

DM14 – Design of Housing

National Planning Policy Framework

National Technical Space Standards

CONSULTATIONS

UPTON HELLIONS PARISH MEETING - 1st February 2018 - Comments:

At a recent Upton Hellions Parish meeting when 15 people attended it was unanimously proposed that the Parish Meeting objected to the application for the following reasons.

1. This is a greenfield site with no buildings to support an agricultural activity. If a permanent dwelling is needed then an established agricultural need should be proved first then planning permission for a dwelling considered afterwards.
2. Is the rearing of hawks agricultural?
3. Can a dwelling be agriculturally tied on 1.7 acres?
4. Hawks make noise. This could be a problem to those living nearby.
5. Concerns were expressed with regard to the foul water run off contaminating the bordering stream which is share by a neighbour to water his sheep.
6. Are the access roads adequate to cater for the increased traffic?

SANDFORD PARISH COUNCIL - 2nd February 2018 - As this location was in Upton Hellions it was agreed the Chairman would discuss the application with the Chairman of the Upton Hellions Parish meeting before submitting any comments from Sandford as an adjoining parish.

Highway Authority - 24th January 2018: No Objections

Observations:

The applicant have participated in pre-application advice and the application drawing 170412GF06 should be conditional of any consent for width alignment parking turning and visibility splays. It is indicated in the application documents that the drive and parking area will be a hard standing, The Highway Authority would seek that the first 6.0m of the access is in a bound material, e.g. bituminous or Concrete.

The applicant should be advised by a note to the consent that a vehicle crossing licence will be required under section 184 of the highways act to carry out the works and they should contact Highway Management on 0345 155 1004

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

PUBLIC HEALTH - 26th January 2017 – relevant comments as set out below:

Licensing - This may require a licence under the Performing Animals Act 1925 - for more information please contact the licensing team via email licensing@middevon.gov.uk
Private Water Supplies - If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.
Please contact Public Health at Mid Devon District Council on completion of proposal.
If mains water is to be used I would have no comment.

6 November 2018: The Harris hawk has two typical calls a grating/screeching call that lasts for around 3 seconds and a more common chirping call which lasts from 4-18 seconds.

From the data received it would seem that taking an average of 3 calls per hour per bird would be about right. Hawks tend to call during the following occasions:

Seeing the handler prior to feeding (Screeching call)
Seeing the handler (Chirping call)
Feeling threatened (Screeching call)

Daytime

For the majority of the day it would seem that the Hawks do not continually call and therefore, it's not foreseen that there will be any change within the local acoustic environment with the introduction of the falconry. On the other hand, on reviewing the noise data supplied, there could be times during the day when the weather conditions are appropriate that screeching from the Hawks maybe noticeable from the neighbouring residential properties amenity areas i.e. when birds perched outside are feeling threatened. However, the durations of the Hawks calls are so short they are not considered to be enough to change or impact on the acoustic character of the area.

Night-time

At night-time the birds are housed within the falconry and therefore, any calling will be mitigated by the acoustic properties of the building. It's not foreseen that there will be any change within the local acoustic environment with the introduction of the falconry during night-time hours.

Taking the above into consideration Public Health has no objections to Planning Application 17/02034/FULL

NATURAL ENGLAND - 26th January 2018 - No comments

REPRESENTATIONS

16 letters of objection received at the time of writing raising the following issues:

1. The river bank from Thornhedges Lane Bridge to Shaky Bridge is bountiful with kingfishers, woodpeckers, and numerous owls including little, tawny and barn. What would happen to these native birds if there was to be several non-native birds of PREY squawking down this beautiful tranquil Creedy valley? Why should we allow this to happen knowing that one day these captive birds could break free and rampage our insecure native birds and wildlife?
2. The site is within 230 meters from our home and no more than 400 meters of all residential houses from the junction with Thornhedges lane to Buckstone House (totalling 16 houses in total). This is relatively undeveloped area, comprising mainly listed residential properties interspersed with long established green fields. The applicant states in supporting documentation "The other key point to consider is the noise produced by the Raptors themselves, they are notoriously noisy creatures, particularly those which are young or in training stages. The noise levels emitted from groups of hawks prevent the keeping of these creatures within most town or village boundaries." The proposed activity at the site by the applicant's own statement will cause a noise nuisance, for those living in the vicinity of the site.
3. Environmental Health Officer indicate no objection to noise and other nuisances. Has anyone been to see the location? How has this conclusion been reached when the applicant has made clear that noise is a problem?

4. Concerned that the report from Acoustic Associates South West Ltd was conducted without a visit to the proposed site at Barton Cross. The barn conversion at Barton Cross is within metres of the proposed site wasn't mentioned in the report. It is stated that the nearest neighbour is 165m distant. This is wrong; the nearest garden (ours) to the site is some 3m (the width of the lane) with our house being some 70m distant. Our neighbours also have a garden to within about 30m of the site. It is stated that the noise level assessment is based on 10 hawks calling whereas I understand that the District Council has required this should be based on 20. Although there has been the report on noise nuisance there does not appear to be any response to other points made in previous comments.

4. The applicant has shown it is established in the South West but not at this site, in this Parish or district. Nowhere in the supporting documentation is it shown that no other suitable (established) site is available for the business.

5. The traffic to and from the site will see an exponential increase out of all proportions to the current level. This being on a minor single lane, dead end carriage way used predominantly by those living along it and recreational users particularly those walking and exercising their dogs (the road continues to various foot paths). The applicant makes no mention in their supporting documentation of their marketed Falconry Experiences that they also operate. We are also concerned that these will be operated from the site at Upton Hellions and again increase traffic and noise. The site is not appropriate to run a public attraction from.

6. The applicant says nothing about the frequency of staff, contractors, delivery/service vehicles and business visitors to the site who could only reach the site via the single access road.

7. Inconsistencies and omissions from the application and supporting documents.

8. Inconsistent with the character of the immediate surrounding area. The proposed field is an entirely untouched area of the countryside and there is no record of any buildings/barns or dwellings at this site previously. There is no footprint and allowing building here, in a field bordering an Area of Outstanding Beauty, will be entirely unprecedented and impractical.

9. Given our location adjacent to the proposed site and that the applicant has stressed the need to be away from traffic, day to day noise from humans and pets and free from, in particular, roaming cats; the proposed location will not be able to satisfy their requirements. There will be dogs and cats in our property and the cats will be free to roam. There will also be day-to-day noise from our garden.

10. The visual assessment is not altogether correct and certainly the proposed house, only a short distance away from our property, will be clearly visible. To mitigate this, the house could/should have been designed to be of lower impact, by, for example, not having a pitched roof.

11. The drainage plans involve run-off into the stream (unfairly described as a "ditch") between the application site and our field. Over these last few metres, the boundary is the middle of the stream. This was agreed so that my sheep could drink from the stream at this point, as it is the only all-weather (wet or dry) practicable drinking point for livestock in our field. I am concerned that this drinking water should remain unadulterated and safe for livestock.

12. Mid Devon do not maintain these roads to anywhere near a satisfactory standard for normal car usage at the moment. The access to the field on the corner of the single lane is blind and therefore a danger to other road users.

13. General concerns as follows: the construction of a bungalow and associated bird pens will detract from the aesthetic beauty, there are a number of unpleasant smells associated with keeping and breeding birds, a commercial bird breeding enterprise within the village increases the risk of villagers' exposure to avian influenza, how can waste be kept within the on-site system and out of the water courses, no area to clean and disinfect vehicles on arrival and departure, ecological habitats will be impacted and destroyed. Finally the viability of the business and the development is questionable.

3 letters of support raising the following issues;

14. Do not believe that any noise nuisance will be experienced by the small number of relatively distant neighbours.

15. The nearest dwellings are at least 2 football pitches away and as the aviary will be built to be sympathetic to dwellings already in the area and the use of local stone finish should allay any of these fears as to the aviary being a carbuncle on the landscape.

16. This venture creates jobs for local people in these times of so-called austerity we should be supporting private enterprise, not stifling it.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- (1) Would the proposed development be in accordance with local and national planning policy regarding residential development in the open countryside and whether there is sufficient justification to permit the siting of rural worker's dwellings in the countryside
- (2) There are other suitable existing buildings or dwellings either on the site itself or within the locality.
- (3) The design of the proposed dwelling and structures
- (4) Impact on character, appearance and general amenities of the area arising from the proposed use.
- (5) Other Issues

1. Residential development in the open countryside

In March 2012, the direction of national planning policy changed with the introduction of the National Planning Policy Framework (NPPF). This revokes a previous raft of national planning policy documents, including Planning Policy Statement (PPS) 7 Sustainable Development in Rural Areas.

The NPPF provides support to economic growth in rural areas in order to create jobs and prosperity. In addition the guidance also recognises how the planning process should assist in maintaining the intrinsic character and beauty of the countryside (paragraph 170).

The proliferation of dwellings in attractive landscapes, such as in Mid Devon, would, if unchecked, result in visual harm and prejudice this core principle. The Framework (paragraph 79) also states that new, isolated homes in the countryside should be avoided, unless there are special circumstances, one of which is the essential need for a rural worker, to live permanently at or near their place of work. This forms the basis of the applicant's in

seeking to respond to the policies COR18 of the Mid Devon Core Strategy 2007 and DM10 of the Development Management policies. Both these policies allow for agricultural/forestry/rural workers dwellings in the countryside where, amongst other things, an essential need has been shown.

The application submissions include a business plan, including the trading accounts for the periods 2015/2016 and 2016/2017 for the applicants existing business, and information in terms of the activities at the site and how it would be managed. Additional supporting information has been provided. Using this information the Council have assessed the proposal against the criteria outlined the policies as referred above.

Is there evidence of an essential need?

Policy DM10 requires that it can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work. The Policy does not indicate that this rural business should be within the District; rather that it is purely an existing rural business. At present the business is located in Powys, Wales, although a substantial percentage of the business currently undertaken is within the SW Region.

When the business was first set up the applicant secured planning permission, including a rural workers dwelling at their site, and as part of that process it was necessary to demonstrate that there was an essential need for a worker to be on site as per the requirement of policy DM10. On this basis it is therefore considered a reasonable conclusion that if it is considered that there is an essential need for this further site then the proposed dwelling could be justified against the essential needs criteria.

The two main reasons presented by the applicant are:

- Checking the Raptor eggs through the incubation process. There are times during this process that the eggs require their temperature and humidity to be checked every four hours. As set out on the submitted plans and as described above the accommodation for this is with the work space part of the proposed dwelling.
- Managing stock and goods at the site. The process involves some high value machinery at the site in addition to the bird stock. An on-site presence through the night-time decreases the likelihood of crime. In addition the process requires the company to hold firearms at the site and Firearms guidelines recommend that guns are kept in a safe household location.
- Disturbance from trespassers, whether innocently exercising dogs or just through curiosity can cause harm. An on-site Falconer can help to prevent these unwanted incidents, and care for the raptors if an incident does take place.

Taking into account the reasoning provided, and reflecting on recent appeal decisions which have upheld the principle of a full time worker to be resident on site to manage issues such as site security and to respond to unchecked incidents, it is considered that criteria (a) of Policy DM10 in this regard is considered to have been complied with.

In addition, the Business Plan indicates that the business has been established for at least 3 years and is financially sound, and having reviewed the trading accounts for the periods 2015/2016 and 2016/2017 it is reasonable to assume that the business has a clear prospect of remaining so. Therefore on this basis subject to the controls regards the occupation of the dwelling as established by the legal agreement and condition 3 as recommended, the proposed for a permanent dwelling is also considered to be supportable in policy terms (DM10 generally).

Whilst some local stakeholders have presented the view that the business activity will be made redundant by the use of robot birds, no evidence of this has been submitted to the Council and the Council have no reason to believe that the rural enterprise does not have a clear prospect of remaining financially sound. In the event that the dwelling and associated buildings are no longer required for this particular rural enterprise the permission as recommended will be subject to a condition requiring the dwelling to be available for other rural workers in the vicinity.

2. There are other suitable existing buildings or dwellings either on the site itself or within the locality.

Policy DM10 also requires consideration of meeting the residential requirement of a rural/agricultural business in a nearby settlement or existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site. There are no buildings on the site. The applicant has indicated that a key requirement of a falconry is that it is free from noise, both human and vehicular with the young birds being particularly sensitive when breeding, molting and whilst recovering from injury and/or stress. Therefore a remote location as presented by the application site is a fundamental requirement in locational terms.

Furthermore the noise produced by the birds themselves is such that close proximity to neighbouring occupiers within a village and/or more urban location would be sensible and/or practical. Please also refer key issue 4 below.

Additionally, best practise in terms of raptor husbandry/breeding is best practiced in an open, natural environment. In the long term this provides a better quality of life and produces a better working animal and is proven to increase lifespan. Raptors require an open flight area of 1 acre minimum. They are given 4-5 specialised training and exercise sessions each day, these sessions last between 10-20 minutes each, and are essential for building memory, fitness and general well-being. The application site meets this requirement.

Reflecting on these requirements it is considered that the proposed development of this site does not breach policy DM10 (b).

3. Design of proposed dwelling and other buildings proposed

In terms of the size of the proposed dwelling, policy DM10 requires that the dwelling unit is not unduly large in relation to the agricultural needs of the holding. There is no standard formula as to what constitutes "a size commensurate with the scale of the operation" as required by criterion (c) of Policy DM10. It is therefore subject to individual professional judgement. The current application seeks a single double bedroom with kitchen/diner/sitting room as habitable accommodation of some 48.2 sq m in a bungalow style designed dwelling. Local red stone will be used clad the gables and the plinth of the workers accommodation, with a slate roof covering with sections of walling formed from local stone and/or timber cladding. In terms of the size and design it is considered that the application scheme meets the relevant policy requirements.

Likewise the ancillary accommodation proposed to house the animals (10 compartments) is considered to be acceptable in terms of its appearance and overall size /scale.

Although some concerns has been expressed about the pitched roof arrangement for the dwelling by a number of local stakeholders, the design of the dwelling is considered to be acceptable and will have limited harm on the visual amenity of the area. It will be well grouped with the functional falconry buildings.

Furthermore the siting and design of the dwelling will not result in any loss of privacy or amenity for the occupiers of any nearby in terms of overlooking, overshadowing and/or the creation of an oppressive environment. Arrangements are proposed to manage the change arising for surface water drainage arrangements across the site.

In summary it is considered that the proposed dwelling is of a scale and size commensurate with the scale of the operation and the location and setting of the proposed site, in accordance with criterion (c) of Policy DM10. To ensure this remains the case, it is proposed to remove the householder permitted development rights to extend the property. . Furthermore the scope of the proposed building are low key and as such are compatible with the overall character and visual amenities of the local landscape. Furthermore the design of the overall scheme is considered to be in accordance with policy COR2, DM2 and DM14.

4. Impact on character and general amenities of the area arising from the proposed use.

In addition to the buildings the application scheme introduces a number of softer features into the landscape, such as the training and weathering areas, additional planting of grassland/meadowland and the formation of an open attenuation pond

The site is not a designated landscape, contrary to views expressed by some local stakeholders the representations made. All development has some visual impact on the countryside, and that is why such proposals have to justify the need for an exception to the policy of protecting the countryside for its own sake. In terms of the scale and massing of the new buildings this issue has been considered above and deemed to be acceptable.

Whilst the application scheme introduces a new rural use and landscape features (as described above) into the area in terms how the field area will be put to use it is considered an acceptable use within the open countryside just beyond the settlement boundary of Crediton without a statutory landscape.

Interested parties indicate that there is concern that native birds may be affected by the birds of prey. Research to date has been largely confined to the effect on bird populations by native wild raptor predation and not the controlled use of trained raptors in bird control which are flown under supervision. This is not to discount the possibility of some disturbance but it is likely to be minimal and not threaten the population status of other bird species as has been suggested.

It is acknowledged that there is potential impact for noise arising from the development of a site that is currently undeveloped. Interested parties have raised concern on two aspects; firstly the residential use of the site and the associated comings and goings from that element and the business, together with noise from the birds themselves. It is acknowledged that, as agricultural land, that there would be some noise and disturbance from the working and maintenance of the land. However based on the information provided the additional activity arising from the new pattern of use would not be significant or material to justify refusing planning permission.

In relation to the noise from the birds themselves, there has been an ongoing dialogue between the Council's Environmental Health officer and the applicants appointed noise consultant. On the basis of the information provided officers in the Pollution Control team have not raised any objections to the development. A summary of their conclusions is set out below:

During the daytime the durations of the Hawks calls are so short that they are not considered to be enough to change or impact on the acoustic character of the area. At night-time the birds are housed within the falconry and therefore, any calling will be mitigated by the acoustic properties of the building. Overall it is not foreseen that there will be any change within the local acoustic environment with the introduction of the falconry during night-time hours.

Concern has also been raised in regard to the use of the minor single lane as access to the business and residential use, with the suggestion that vehicular use would conflict with walkers intending to use nearby footpaths. Given the level of anticipated use arising from the proposed development the County Highway Authority have raised no objections to the development. The NPPF is clear at paragraph 109 that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe. This is not considered to be the case with the application scheme.

In summary it is not considered that the application scheme in terms of the buildings as proposed and with regards to the change of use of land would be incompatible with the character of the locality and the amenities of existing and any future residents in the area.

5. Other Issues raised:

Avian bird flu places strong legislative controls on movement during an outbreak. In such an event, other legislation would control these issues, not the planning system.

The application forms note one direct full-time employee. It is expected that there could be addition spin off employment from the proposed business

The Bat Activity Report requires a smart lighting strategy and those recommendations are conditioned to ensure lighting on the site is kept to a minimum.

Should the business want to expand in the future, planning permission would be required for additional buildings/structures and/or for public visitor experiences. Any future application would be considered on its own merits.

Conclusion & planning balance

The application introduces a new rural use onto the site, and a case has been made that there is an essential need for a rural worker to be on hand day and night to deal with emergencies and to ensure animal welfare and this would involve the need to live permanently on the site. Providing accommodation off site in the local area is not a deliverable option from a management point of view. No technical and/or site planning issues have been raised regards unacceptable impacts arising, and the new buildings as proposed are considered acceptable in terms visual impact and overall the proposed use is compatible with the general character and visual amenities of the area.

As such the particular circumstances in relation to the application scheme are considered to be justified when considered against policy COR18 and DM10 and guidance in the National Planning Policy Framework. Permission is therefore recommended subject to the following conditions.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The occupation of the dwelling hereby approved shall be limited to a rural worker and or a person solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
4. The dwelling hereby approved shall not be occupied until a plan indicating the height, positions, design, materials and type of all boundary treatment to be erected on the site has been first submitted to and approved in writing by the Local Planning Authority. Such boundary treatment shall subsequently be so implemented in accordance with the approved details and thereafter retained.
5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C,D, E and G of Part 1, relating to the enlargement or alteration of the dwelling or its roof, and the provision of outbuildings or Class A or Part 2 of Schedule 2, relating to fences and other enclosures, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
6. The office/incubation room hereby granted shall be used solely in connection with the falconry business and not as part of the residential accommodation.
7. The facilities at the site shall not be open to be open to the general public.
8. The development hereby approved shall be carried out in accordance with the recommendations as set out in the Ecological Appraisal (June 2017) prepared by ESLtd and The Bat Activity Report (November 2017) prepared by ESLtd.
9. The gate(s) provided shall be hung to open inwards only and shall be set a minimum distance of 4.8 metres from the edge of the adjoining carriageway, and thereafter be so retained. In addition, the first 6m of the proposed access shall be in a bound material and shall be completed to prevent the disposal of surface water so that none drains on to the public highway.
10. Before the development hereby permitted is first brought into use, the alterations to the hedge to provide a northerly visibility splay and the parking area shall be provided, as shown on drawing 170412GF06. Following their provision, the parking area and the visibility splay shall be so retained as shown on the approved plan.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

3. The site is located outside defined settlement limits in the open countryside, where national and local planning policy would normally restrict new residential development unless there are specific circumstances which in this case is that there is an 'essential need' for a worker to live on the site to manage the proposed activities on the site, and to be in accordance with policy COR18 of the Mid Devon Core Strategy (LP1), policy DM10 of local Plan 3 and guidance in the NPPF.
4. To safeguard the character and appearance of the area in accordance with Policy DM2 of the LP3.
5. To safeguard the visual amenities of the area and to ensure that the dwelling remains of a size commensurate with the need of the activities on the holding to which it relates, and in accordance policies COR18 (LP1), DM2, DM10 and DM14 (LP3).
6. To ensure that the dwelling remains of a size commensurate with the needs of the activities on the holding to which it relates, and in accordance policies COR18 (LP1), DM2, DM10 and DM14 (LP3).
7. To prevent unnecessary traffic from being attracted to the site as a result of such customers, which may adversely affect safety on the local road network, and in accordance policies COR 9 (LP1), DM2 (LP3) and guidance in the NPPF.
8. To ensure the protection of any ecological interest at the site.
9. In the interests of highway safety, to prevent damage to the highway, to ensure the formation of a safe and satisfactory access, and in accordance policies COR 9 (LP1), DM2 (LP3) and guidance in the NPPF.
10. In order to form a safe and satisfactory access and to prevent parking on the public highway, and in accordance policies COR 9 (LP1), DM2 (LP3) and guidance in the NPPF.

INFORMATIVES

1. Foul drainage should be kept separate from clean surface and roof water.
2. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. Please contact Public Health at Mid Devon District Council on completion of proposal.
3. The applicant is advised that in carrying out the approved scheme of development it will be necessary to comply with the Wildlife and Countryside Act 1991, and the Conservation of Habitats and Species Regulations 2010.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The application is for the change of use of land for the siting of premises for falconry business and an associated dwelling house. A case has been made that there is an essential need for a rural worker to be on hand day and night to deal with emergencies and to ensure animal welfare and this would involve the need to live permanently on the site. A

satisfactory means of access is achievable, and no technical and/or site planning issues have been raised regards unacceptable impacts arising, and the new buildings as proposed are considered acceptable in terms of visual impact and therefore overall the proposed use is compatible with the general character and visual amenities of the area. As such, the proposal is considered to comply with policies COR2, COR9 and COR18 of the Mid Devon Core Strategy and policies DM1, DM2, DM10 and DM14 of the Local Plan part 3 and the National Planning Policy Framework.

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. 18/01260/FULL

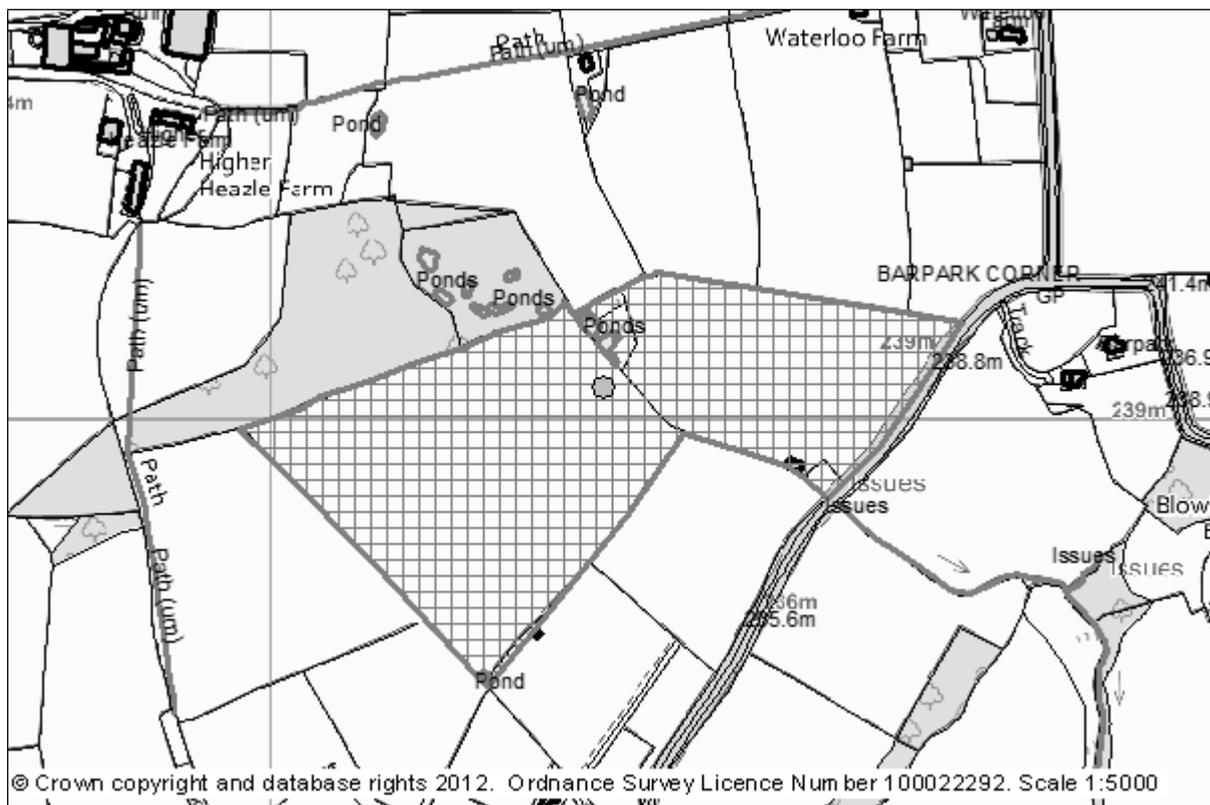
Grid Ref: 316325 : 116035

Applicant: Ms R Fairhurst

Location: Land at NGR 316219 116022
(Poachers Rest)
Clayhidon
Devon

Proposal: Change of use of agricultural land to mixed agricultural and equestrian,
erection of a timber framed barn and construction of a menage

Date Valid: 25th August 2018



APPLICATION NO: 18/01260/FULL

MEMBER CALL-IN

The application has been called-in by Councillor Rosamond to consider the proposals impact on the AONB and to consider the applicants justification for the proposed development.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

This application seeks permission for the change of use of agricultural land to a mixed agricultural and equestrian use with the erection of a timber framed barn and construction of a menage.

The site known as 'Poachers Rest' comprises approximately 14 acres (just over 5 hectares). The land is divided into two fields; field 1 which is approximately 5 acres in size is located adjacent to the road off of the existing access and includes the with field shelter and the larger existing barn on the site, field 2 is approximately 9 acres in size and is located to the west of the site accessed from the northern end of field 1.

The applicant is currently using the fields for the grazing of four horses as well as sheep and is applying for a change of use from agricultural to mixed agricultural and equestrian use. In addition, stabling is needed to provide proper management of the horses, particularly during the winter months. A menage is also proposed as part of the application to provide an exercising area that is safe, both for the rider and for the horses, by providing a suitable soft and level surface in an enclosed area.

APPLICANT'S SUPPORTING INFORMATION

Site location plan, existing and proposed block plans, proposed cross section of menage, proposed floor plan/ elevations of barn, planning statement, detailed barn floor plan.

RELEVANT PLANNING HISTORY

08/01779/FULL - PERMIT date 26th November 2008
Erection of a field shelter
09/01468/FULL - PERMIT date 24th November 2009
Erection of a field shelter (Revised Scheme)
17/00796/PNAG - PDA date 13th June 2017
Prior notification for the erection of an agricultural storage building

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High Quality Design

DM8 - Parking

DM22 - Agricultural Development
DM23 - Equestrian Development
DM29 - Protected Landscape

CONSULTATIONS

Clayhidon Parish Council: 10th October 2018

The parish council met Monday evening to consider this application. This was before the latest addition to the web site showing the correspondence between MDDC and the applicant's agent. Nevertheless the comments remain valid.

The parish council objects to this application for considerable engineering work in the AONB. It makes the following comments:-

' The planning application makes no reference to the existing large green shed on the site.

' The site location plan is misleading as the information provided for the track is incorrect.

' The manure heap is positioned above the adjacent ditch and this will drain into the river Culm, via local properties.

' There is no mention of any hard surface between the proposed stable and menage and so the pc has welfare concerns around the horses moving between menage and stable block. Any such trackways would provide additional water run-off issues.

' The applicant has not demonstrated an agricultural/equine need for the additional barn on site, bearing in mind the capacity of the existing large green shed which has significant fresh air room in its eaves.

' The applicant has made changes to the field shelter, fencing, tracks which are unlawful.

' There has been no engagement with the parish by the applicant and the pc fails to see how this application can be approved without seeking the outstanding information.

The parish council requests that the whole planning application be re-submitted showing the complete location plan with large green barn and new trackways. If there were to be changes to the field shelter included as well, this would need additional consideration as the pc believes that the large green barn has more than enough room for a workers rest/welfare space. Furthermore the drainage of the site, which with local knowledge of the significant water-logging across the whole area from Hidonfields to the large ponds to the north and west which then ran onto the road before any construction work started. This requires specialist environmental analysis/Environment Agency comment before more work is done. It is proposed that the planning officer visits the site with the parish councillors to ensure that all the available information is aired.

Blackdown Hills AONB: 06.11.2018

Thank you for seeking comments from the Blackdown Hills AONB Partnership on the above application.

As you know, the AONB Partnership supports its local planning authorities in the application of national and local planning policy in order to ensure that any development in the AONB conserves and enhances the natural beauty of this nationally designated landscape. In support of this the Blackdown Hills AONB Management Plan 2014-19 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policy of particular relevance to this proposal:

PD 1/B Seek to ensure that any necessary new developments or conversions within the AONB or affecting its setting conserve and enhance natural beauty and special qualities, particularly by respecting the area's landscape character and the local character of the built environment, reinforce local distinctiveness and seek to enhance biodiversity.

Equestrian developments, particularly ménages, can appear at odds with the natural form of the AONB landscape; this type of development can require careful consideration, particularly in isolated locations such as this. The AONB Partnership believes that any development proposal in an isolated location requires very careful consideration of landscape and visual impact, and have regard to necessity, siting, scale, design and environmental considerations in order to conserve and enhance the natural beauty of the area.

The introduction of a car parking area and choice of fence together with the chosen approach to the building, on the adjacent field do not appear to have been sympathetically considered in respect of conserving and enhancing the AONB. With regard to this application, we would suggest that height, colour and materials of the stable barn should be carefully considered. We would also wish to ensure that the use of the barn and ménage is restricted to personal use, incidental to the smallholding, any fencing is agricultural in appearance and of natural timber, and the finish of the ménage surface is an appropriate, darker, natural colour. In order to conserve the dark skies of the AONB, we would not wish to see lighting for the ménage and any internal/external lighting requirements for the barn should be carefully controlled. There seems to be no indication of access arrangements from the adjoining field to the building or ménage or of any hardstanding area around the building, which would also require consideration in terms of landscape and visual impact. I trust that these observations are helpful to your considerations.

Highway Authority: 25/9/2018

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>.

Environment Agency: No comments received.

REPRESENTATIONS

One letter of representation has been received at the time of writing the report. The following comments were raised: the plans do not show the existing agricultural green barn on the site, questioning the agricultural need of the proposal, questioning the pollution risk on the site, and the unauthorised works to the existing field shelter on the site. Officers can now confirm following receipt of this letter that the agricultural barn references in shown on the existing and proposed block plan.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and procedure
 2. Justification for the proposal
 3. The effect of the proposal on the landscape character of the area and Blackdown Hills Area of Outstanding Natural Beauty (AONB)
 4. Other matters
-
1. Policy and procedure

The site is located in the countryside, to the North East of Clayhidon. The site is located outside of any defined settlement limit. Policy COR18 of the Mid Devon Core Strategy sets out the types of development that could be acceptable in the open countryside which would include equestrian and agricultural related development. Policies DM22 and DM23 of the Mid Devon Development Management Policies establishes that horse-related facilities and agricultural related development in the countryside will be permitted where they are well integrated with their surroundings, the use can be justified and the development does not result in any adverse impacts on the local road network and environment. The site is also located within the Blackdown Hills AONB. Further consideration of the proposal against these policies will be given in the section of the report below.

2. Justification for the proposal

As part of the assessment process it is necessary to consider whether the proposed development would be reasonably necessary for the purposes of agriculture. The applicant has advised that they intend to establish a small agricultural business from the site with

sheep grazing the land and chickens (there are some temporary chicken sheds currently on the site).

At present the agricultural land does benefit from two agricultural buildings. Barn one, the larger and more recent of the buildings on the site, is a larger barn amounting to 450 sqm which was allowed under the agricultural prior notification procedure ref: 17/00796/FULL which is used for the storage of hay, straw, chicken feed, tractors and other machinery and egg cleaning machinery etc. The other building on the site is a field shelter granted permission under application reference 09/01468/FULL which is a building amounting to approximately 38 sqm with a 2.4m height at eaves level – a height which the applicant states would not be suitable for horses to be stabled in hence the application for a barn with more appropriate stabling accommodation for the applicants horses. Whilst there are therefore other buildings on the site, due to their sizes and existing uses these are not considered to be suitable for the applicants intended use and as such a larger barn amounting to 228.5 sqm is proposed.

The proposed barn to be located in field 2 measures 22.85m in length x 10m in depth. The height of the barn to eaves level measures at 3.6m and the overall height to ridge level measuring 5.085m. The proposed materials of the barn are to include a steel portal frame overlapping Stockwall below at a height of 1.23m. with timber cladding in Lapped boarding (based on 75mm gap) overlapping the stock wall below by 150mm. 22mm x 150mm pressure treated timber sawn boards arranged vertically with a roof of fibre cement sheeting in Anthracite grey finish with barge boards, ridge and finials to match. 10 rooflights are proposed on the roof of the building to provide natural light to the building. 3m x 3m timber double sliding doors are proposed to the front of the building. The slope of the roof is gently sloping with a 15 degree pitch. Marley deepflow guttering in black is proposed to the front and rear of the building to collect surface water resulting from the building.

The proposed menage which is also to be located in field 2 measures 40 metres x 20 metres. The menage is to be constructed with a sand and fibre surface bound by a timber post and rail fence (1.2 metres in height measured above ground level).

Policies DM22 (agricultural development) and DM23 (equestrian development) provide in principle support for development such as that which is proposed at part of this application scheme. The proposal is assessed against each policy in more detail below.

Agricultural development will be permitted by policy DM22 where:

- a) The development is reasonable necessary to support farming activity on that farm or in the immediate agricultural community;

- b) The development is sensitively location to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area; and
- c) The development will not have an unacceptable adverse impact on the environment.
- d) The development will not have an unacceptable traffic impact on the local road network.

The proposed barn in field 2 is proposed for uses compromising of both agriculture and equestrian uses. The barn will provide four stables for the applicant's horses, 2 sheep pens, a tack room and space for the storage of a quad, tools, sheep equipment and hay/ feed.

There is an existing site access which will be utilised. The visibility for vehicles leaving the site in a forward gear is considered to be sufficient in both directions. There is parking provision adjacent to the highway in the identified parking area of the site which is shown on the existing and proposed block plans.

Horse related facilities and equestrian enterprises in the countryside will be permitted under policy DM23 where they are well integrated with their surroundings, being of appropriate location, scale, design and materials so as not to harm the character and landscape of the rural area or the amenity of nearby residents. Equestrian development must not result in an unacceptable increase in traffic on the local highway network.

It is noted that the equestrian use of the site, the stabling and menage is proposed as a personal venture and not as a commercial undertaking. As such traffic movements to and from the site will be lower and your officers have no issues with this use and will impose a condition to this effect. If the applicant requires a change to the terms of this agreed use they would need to submit a further planning application to amend the use of the site. The equestrian elements of the application scheme are to be sited in Field 2 which as mentioned previously is well screened by existing mature hedging and vegetation surrounding the site to help to screen/integrate development into the surrounding landscape. The design and scale of the equestrian facilities is proposed is considered to be in line with other equestrian development allowed as part of a personal venture within the district and as such no additional concerns are highlighted.

Officers have taken into account that the intended agricultural activities on the site have not yet fully started, and that there is limited agricultural activity and infrastructure on the agricultural land in question at present. However, there is no requirement under policy DM22 for the agricultural activities which would generate the requirement for an agricultural building to currently exist. Officers conclude that the proposal would be reasonably necessary for the purposes of agriculture on the unit and would generally accord with policy DM22, which states that new agricultural buildings will be permitted if they are reasonably necessary for the purposes of agriculture within the unit.

It is recommended that a condition is imposed to restrict the use of the stables to ensure it remains domestic in scale and appropriate to the locality.

3. The effect of the proposal on the landscape character of the area and Blackdown Hills Area of Outstanding Natural Beauty (AONB)

The proposal is located in the AONB where policy DM29 seeks to ensure that development proposals conserve or enhance cultural heritage and the character, appearance, setting and other special qualities of the landscape and its biodiversity.

Whilst the proposed building would be of some considerable size, height and

scale, the visual impact of the proposed development is minimal due to the existing vegetation surrounding the site and the limited public views from outside of the site such that the proposed development would not appear unduly obtrusive. It would appear as an agricultural building with a generally utilitarian design, incorporating timber clad walls, sliding doors to the front of the building with a profile sheet roof in Anthracite grey which would not look out of place in this rural open grass setting.

Whilst field 1 is relatively well screened from the road, field 2 is much better screened from the road and is hardly visible at all being that there is another agricultural field between field 2 and the road. There is dense hedging and trees around the perimeter of both fields. It is in field 2 that both the barn and menage is proposed. It is not considered that any further landscaping is required.

The proposed materials are considered to be suitable for the area in which the site lies and will ensure that the special qualities of the AONB are protected in accordance with policy DM29. Overall, your officers consider that the development would conserve the landscape and scenic beauty of the AONB, to which great weight is attached in accordance with the National Planning Policy Framework.

4. Other matters

In 2017 a large barn was allowed on the site under permitted development rights (ref 17/00796/PNAG). This barn is shown on the existing and proposed block plan and has been confirmed by the applicant to be for the use of storage hay and other agricultural equipment necessary for the holding. Since the application has been submitted it is noted that the applicant has advised that this barn has been damaged in the poor weather and will need to be repaired.

Given the separation distance to nearby residential properties, it is not considered that the proposal would impact upon the privacy that occupiers of the surrounding dwellings currently enjoy. It is noted that no objections have been received in that regard.

A letter of representation has been received which makes reference to the pollution risk of the site. It is assumed that the writer is referring to the proposed manure heap. The siting of a manure heap does not in itself require planning permission and the applicant would be within their rights to site the manure heap anywhere on the site without the need for planning permission. The proposed arrangement is to periodically remove the manure from the site using the existing access. The Local Planning Authority does not have powers to enforce against any pollution impacts on the scheme. However if any issues do arise in regards to pollution from the site sourcing from the manure heap, people could contact the Local Authority's Environmental Health department who do have powers to investigate and enforce where necessary to do so.

Your officers are aware that changes have been made to the field shelter as marked on the plans approved under ref 09/01468/FULL. It is the understanding of officers that a second application will be made to seek to regularise the changes to this field shelter and to establish a different use of the shelter. This is not a matter for consideration in respect of the current application.

Reference has been made by the parish council to the fencing and parking area adjacent to the existing access. Officers can confirm that this hardstanding area was in existence prior to this application being submitted and parking on this area does not require planning permission. The fencing does not form part of this application but the LPA would make the applicant aware that if the fencing exceeds 2 metres in height (as measured from natural ground level) this would require planning permission.

Whilst the proposed application does not refer to the need or desire for external lighting, it is appropriate that lighting within the open countryside is controlled. An appropriate condition seeks the details of any lighting should they be required. The applicant has confirmed that no lighting is proposed as part of this application. A condition requiring any lighting on the site in the future will be imposed in order to protect the dark skies of the AONB.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice
3. The stables and riding arena hereby permitted shall be used for private equestrian purposes only and shall not be used as a riding establishment or for any commercial equestrian purpose, including any livery use.
4. Before their installation, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and be so retained.
5. The roof of the barn shall be Anthracite grey in colour and retained as such.
6. Notwithstanding the cross section of menage plan submitted with the application, details of top dressing materials of the menage, including the colour (which should be a dark grey as opposed to the light grey proposed on the plan submitted with the application) shall be submitted to the LPA and approved in writing by the LPA prior to its use on the menage.

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 prevent the development generating an increase in traffic movement on the local highway network in accordance with policy DM23 Local plan part 3 (Development Management Policies) and because permission is granted solely to serve the domestic needs of the applicant.
4. To safeguard the rural character of the area in accordance with policy DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).
5. To safeguard the character and appearance of the AONB in accordance with policy DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To safeguard the rural character and appearance of the AONB in accordance with policy DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The design, scale, location and materials proposed for the new agricultural building, and menage are considered to be acceptable. Given the siting of the building and the scale of the equestrian use for personal use, and subject to the proposed use being restricted to prohibit livery use etc., it is not considered that the development would impact upon the privacy or amenity of the occupants of other nearby dwellings or have a detrimental impact on the local highway network. The use of the application site for a mix of agricultural and equestrian uses is not considered to result in an increase in traffic movement on the local highway network. Following the assessment of the application scheme it is not considered that it will harm the character and/or the visual amenities of the open countryside and the proposed development is considered to conserve the natural beauty of the AONB. On this basis the application scheme is considered to be in accordance with policies COR18 of the

Mid Devon Core Strategy, policies DM2, DM22, DM23 and DM29 of the Mid Devon Development Management Policies and the National Planning Policy Framework.

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. 18/00284/ADVERT

Grid Ref: 283741 : 99952

Applicant: Mr R Brookes-Hocking

Location: St Boniface Church, East St Junction With Charlotte St, Crediton Parish
Church Car Park (The Old Organ House) , Newcombes Meadow Park, Crediton Methodist
Church, Town Square, Crediton Congregational Church, & St Lawrence Green
Crediton

Proposal: Advertisement Consent to display 8 non-illuminated heritage trail information
panels

Date Valid: 12th February 2018



APPLICATION NO: 18/00284/ADVERT

RECOMMENDATION

Grant consent subject to conditions

PROPOSED DEVELOPMENT

Advertisement Consent to display 8 non-illuminated heritage trail information panels.

Display of 8 signs, all of which are non-illuminated, supporting the Boniface Heritage Trail throughout Crediton.

All the signs are identical in structure and materials but with sequential story-images laminated within. They measure 2m in height, 0.75m in width and 25mm in depth. They are to be laminated toughened glass with neoprene gaskets set into galvanised steel uprights extending from a cantilevered H-frame below ground.

Some signs are within the Conservation Area and others within the curtilage of listed buildings. The 8 sites are as follows:-

1. St Boniface Church
2. East Street junction with Charlotte Street
3. The Organ House in the Parish Church car park (this has been confirmed post submission)
4. Newcombes Meadow Park, Belle Parade
5. Methodist Church, Union Road
6. Town Square, Market Street
7. Congregational Church, High Street
8. St Lawrence Green, High Street.

RELEVANT PLANNING HISTORY: None specific to this application.

DEVELOPMENT PLAN POLICIES

Core Strategy

COR2 – local distinctiveness

Local Plan Part 3 Development Management Policies

DM2 - High quality design

DM7 - Pollution

DM27 – Heritage assets

NPPF – in particular para 132 and chapter 16

Crediton Conservation Area Appraisal

CONSULTATIONS

Highway Authority - 19th April 2018 - The Highway Authority has no objection to the proposal but would recommend that the sign at the junction of East St and Charlotte Street is removed from the plan due to its location

close to the junction which will cause a distraction and would appear to be on Public highway
Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION
TO
THE PROPOSED DEVELOPMENT

CREDITON TOWN COUNCIL - Recommend APPROVAL.

WEST AREA CONSERVATION OFFICER - Concerns expressed on 20th March 218 about
the proposition to locate a sign within the Church of the Holy Cross which is a Grade 1 listed
building.

HISTORIC ENGLAND - 22nd March 2018 - Historic England Advice

Historic England has not had much involvement with the development of this project but we
are aware of its overall objective of raising awareness within Crediton of the heritage of the
town and its associations with the historical figure of St Boniface. The method chosen of
commemorating that figure, through the installation of large panels of coloured glass, is a
somewhat unconventional way of creating a history trail in today's digital age, and it does
cause us some concern for the long-term maintenance of the panels. However, that is not,
on its own, a reason for objecting to their installation.

In general, the installation of the panels at various locations around the town centre does not
cause us undue concern. However, the one location we do consider particularly sensitive to
such an installation, is the churchyard of the parish Church of the Holy Cross. This grade I
listed building is one of Devon's finest and most ancient parish churches, and it is highly
prominent in the conservation area. The churchyard forms an important green setting for the
church and we have concerns that the size and construction of the St Boniface panel will
create an incongruous element within that setting and in views towards the church from the
public domain. Furthermore, there are considerable archaeological sensitivities which make
its installation in the churchyard problematic in our view.

We will be making similar comments in relation to the Faculty application for the installation
of the panel within the churchyard, and will be strongly advising that an alternative location is
found for it outside the churchyard boundary, or that the design of this particular panel is
modified to reduce its visual and physical impact. We would therefore ask the Council to
consider carefully this element of the proposal and how appropriate it would be to approve it,
in the light of our concerns.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in
order for the application to meet the requirements of paragraphs 128, 129 and 132 of the
NPPF. In determining this application you should bear in mind the statutory duty of section
66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special
regard to the desirability of preserving listed buildings or their setting or any features of
special architectural or historic interest which they possess.

HISTORIC ENVIRONMENT TEAM - 3rd April 2018

I refer to the above application. The proposed information panels lie within the Crediton
Conservation Area, in the town's historic core, in proximity to several designated heritage
assets and, as such, within an area of archaeological sensitivity.

The Historic Environment Team would concur with the comments made by Historic England and the Planning Authority's Conservation Officer with regard to concerns over the siting of panel 3 in the graveyard to the south of The Church of the Holy Cross.

Panel 1 - no anticipated impact upon below-ground archaeological deposits.

Panel 2 - this panel lies within the historic core of the town and there is the potential that excavations for the foundations of the panel may expose archaeological deposits associated with the early settlement in the town.

Panel 3 Alternative site - this panel lies in proximity to the Church of the Holy Cross and in an area of known archaeological potential and there is the potential that excavations for the foundations of the panel may expose archaeological deposits associated with the early settlement and church buildings known to have been present in this area.

Panel 4 - this panel is sited adjacent to the locally listed St Boniface Statue: consideration should be made of the impact of the proposed panel upon the setting of this heritage asset.

Panel 5 - this panel lies within the historic core of the town and there is the potential that excavations for the foundations of the panel may expose archaeological deposits associated with the buildings here that pre-date the extant church as well as deposits associated with the early settlement in the town.

Panel 6 - no anticipated impact upon below-ground archaeological deposits.

Panel 7 - this panel lies within the historic core of the town and there is the potential that excavations for the foundations of the panel may expose archaeological deposits associated with the buildings here that pre-date the extant buildings as well as deposits associated with the early settlement in the town.

Panel 8 - this panel lies within the historic core of the town and there is the potential that excavations for the foundations of the panel may expose archaeological deposits associated with the early settlement in the town. It also lies in proximity to the two designated heritage assets - a listed medieval cross base and a K6 telephone kiosk.

Given the potential for groundworks for the foundations of these panels to expose and destroy archaeological and artefactual deposits I would advise, in accordance with paragraph 141 of the National Planning Policy Framework (2012), 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development.'

I would envisage a suitable programme of work as taking the form of the archaeological monitoring and recording of all groundworks associated with the construction of the panel foundations 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.

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/>.

REPRESENTATIONS

2 letters of objection received raising the following issues:

- Holy Cross Crediton is Grade 1 listed and is of the highest exceptional cultural and historic significance for its history, its architecture, its fittings and its setting. Is one of the top half dozen heritage buildings in Devon and many people consider it to rank within the top 100 parish churches in all of England. It is a prominent structure within the conservation area that is surrounded by a large well-kept churchyard one of three remaining large green spaces within the centre of the town. The church itself contains all kinds of monuments and artefacts of local, regional and national importance. You only have to look through the church visitors book comments to see what a 'Wow factor' Holy Cross has.
- I am objecting to the placing of a two metre high 75kg glass monolith in the churchyard. This will be not in keeping with its proposed surroundings. It will be far bigger than any of the remaining headstones of a similar shape in the churchyard and I have concerns for the excavations needed as it is known from a ground penetrating radar survey conducted in 2007 that the churchyard has a large number of single and double barrel vaults many only just under the current surface. There could of course be other archaeological issues.
- I note the monolith will be made from toughened glass. While this is much safer than normal glass it will still be subject/prone to damage around the edges and blows struck by sharp pointed objects and other vandalism. Once installed I wonder how well kept it will be as I doubt whether the parish church authorities will have the resources for this and wonder who will take responsibility for the longer term upkeep and dealing with any issues with it.
- Given the height and weight of the monolith I have some health and safety concerns as large numbers of children walk past the chosen churchyard location
- In short an unwanted incongruous piece of road/town furniture which would be far better located, if we must have it, somewhere outside the boundary of the Holy Cross churchyard curtilage.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The NPPF indicates that poorly placed advertisements can have a negative impact on the appearance of the built environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Taking into account the site locations the main issues involved in the consideration of this application are;

- Visual amenity of the Conservation Area
- Setting of a Listed Building, and
- Public safety

Section 72(1) of the Listed Building and Conservation area Act 1990 requires special regard to be given to the desirability of preserving or enhancing the character or appearance of Conservation Areas. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The following sections of the report present an assessment of the application against these issues.

Visual amenity / Heritage Impacts

Sign 1: The host site for sign 1 sits roughly to the left of the pedestrian entrance path to the Church. The site is not within but is adjacent to the Conservation Area and therefore can have an impact on its setting. The building is not listed. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 2: The host site for sign 2 sits roughly opposite the Fire Station. The site is within the Conservation Area. The Conservation Area Appraisal notes nothing of importance within the immediate area. It does not affect the setting of a Listed Building. No objection is raised to the visual amenity of the sign. Although the Sign 3: Highway Authority raise a concern that a sign in this location may present a distraction for users of the highway objection they have not raised an objection.

Sign 3: Following submission the applicant confirmed that option B will be pursued as opposed a location in front of church building which was Option A (refer to comments from Historic England and the Conservation Officer). As a result it is proposed that the host site for sign 3 sits to the east of the Organ House within the car park to the north of the Holy Cross Church. The site is within the Conservation Area and within the setting of the Listed Building. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 4: The host site for sign 4 sits to the west of the St Boniface Statue within the park. The site is within the Conservation Area and within the setting of the War Memorial which is a Listed Building. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 5: The host site for sign 5 sits to the right hand side of the pedestrian access to the Methodist Church. This site is within the Conservation Area and is within the setting of a Listed Building. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 6: The host site for sign 6 sits in the North West corner of the Town Square. This site is within the Conservation Area and is within the setting of a Listed Building. This corner of the Square is already reasonably cluttered with street furniture and the inclusion of the Heritage Trail sign in this location will not add significantly to that clutter. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 7: The host site for sign 7 sits within the car park area to the front of the Congregational Church. This site is within the Conservation Area and is within the setting of a Listed Building. Whilst the location of the proposed sign would appear to conflict with the ease of movement of pedestrians and vehicles within the car park presently, the Governors propose a renovation of the car park which would assist this potential for conflict. In any case, this is not a matter for this application. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

Sign 8: The host site for sign 8 is on the south side of St Lawrence's Green. This is within the Conservation Area but does not affect a Listed Building. No objection is raised to the visual amenity of the sign and matters of public safety are not raised in this instance.

In summary it is not considered that proposed advertisements would adversely accept the visual amenities of the locality and/or result in detriment to the setting of any heritage assets.

Public safety

Overall it is considered that the proposed signs are sufficiently set back from public highways (roads and footpaths) so as to not result in a public safety issue that is considered to tip the balance in favour of refusing the application.

Other matters raised

The objectors raise specific concern with the sign with the Holy Cross churchyard. As stated above this sign has been removed in preference to siting it at the Organ House to the north.

Concern has also been raised in regard to the potential to vandalise the signs and therefore the responsibility of their maintenance and good repair. All outdoor advertisements must comply with five 'standard conditions'. They must be kept clean and tidy, be kept in a safe condition, have the permission of the owner of the site on which they are displayed (this includes the Highway Authority if the sign is to be placed on highway land), not obscure, or hinder the interpretation of, official road, rail, waterway or aircraft signs, or otherwise make hazardous the use of these types of transport, and be removed carefully where so required by the planning authority. Should the signs become vandalised to a point that they are not "tidy" or are not in a "safe condition" the applicant would be in breach of the 'standard conditions'.

The condition as recommended by the County Archaeologist is set out as condition 3.

CONDITIONS

1.

i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

ii) No advertisement shall be sited or displayed so as to –

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

iii) Any advertisement displayed, and any site used for the display of advertisements shall be maintained in a condition that does not impair the visual amenity of the site.

iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

2. The advert(s) hereby granted consent shall be removed on or before 31st December 2023 at the end of a period of 5 years from the date of this consent.

3. No groundworks shall take place at any of the sites hereby approved to accommodate an advertisement panel as approved until the applicant has secured the implementation of a

programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Town and Country Planning (Control of Advertisement) (England) Regulations 2007.
2. In accordance with the provisions of Town and Country Planning (Control of Advertisement) (England) Regulations 2007.
3. In accordance with the National Planning Policy Framework and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) and so that an appropriate record is made of archaeological evidence that may be affected by the development.

REASON FOR APPROVAL

The proposed signs would be acceptable in terms of their design and impact on the visual amenity of the locality and in terms of the impact on any heritage assets and therefore would accord with Core Strategy Policy COR2 and Local Plan Part 3 Development Management Policy DM2, DM7 and DM27. The proposals would be acceptable in terms of the public safety of users of the public highway. The application proposals are also considered to accord with the guidance as set out 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.