

Application No. 18/02080/FULL

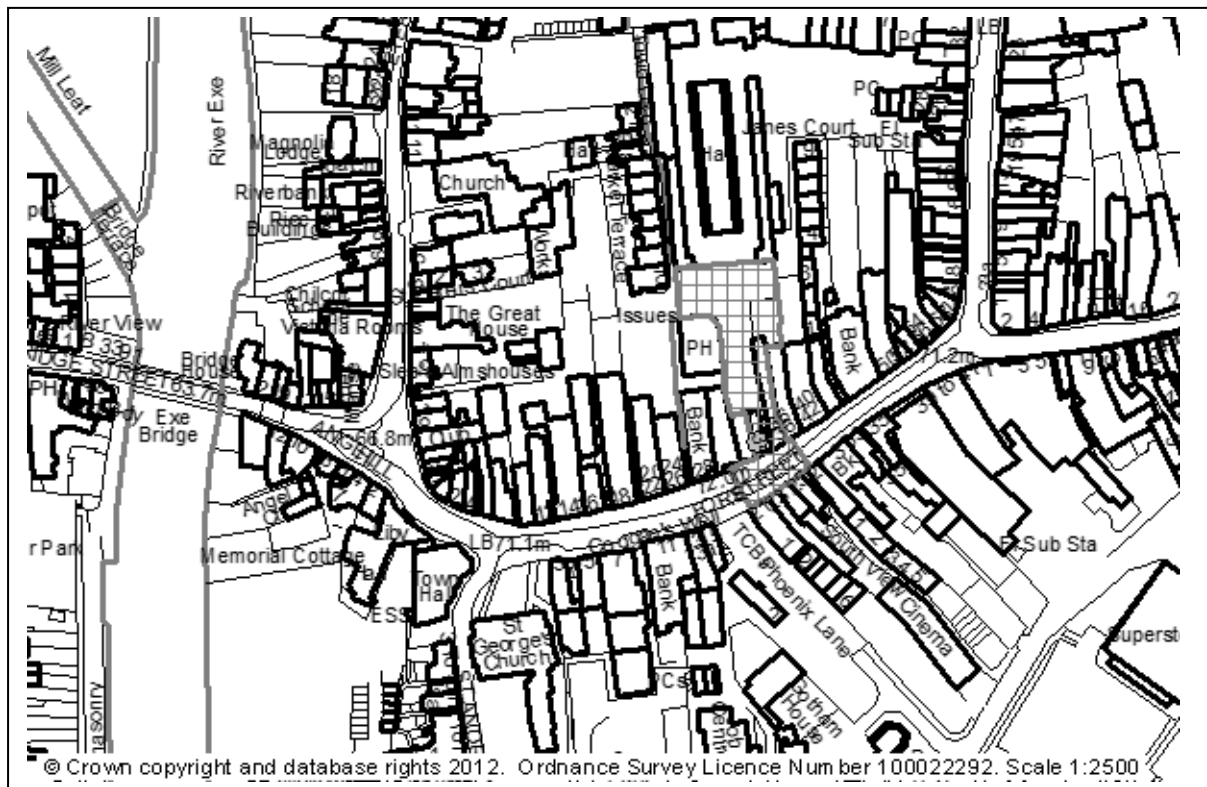
Grid Ref: 295512 : 112531

Applicant: Mr Andrew Busby

Location: 34 Fore Street and Land to Rear of 36 Fore Street
Tiverton
Devon
EX16 6LD

Proposal: Demolition of ground floor shop, installation of external cladding, signage, canopy and display windows, erection of a mixed use building of 3 apartments with ground floor retail units with associated works

Date Valid: 28th December 2018



APPLICATION NO: 18/02080/FULL

**THIS APPLICATION IS TO BE DETERMINED BY THE PLANNING COMMITTEE
AS THE APPLICANT IS MID DEVON DISTRICT COUNCIL**

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement
• £2,700 – Towards provision of youth equipment at west Exe Neighbourhood Park

PROPOSED DEVELOPMENT

Demolition of ground floor shop, installation of external cladding, signage, canopy and display windows, conversion of store to form retail unit, erection of a mixed use building of 3 apartments with ground floor retail units with associated works.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Heritage statement
Flood risk assessment
Existing and proposed plans

RELEVANT PLANNING HISTORY

16/00850/FULL - PERMIT date 4th August 2016
Erection of replacement door canopies

15/00945/LBC - PERMIT date 30th July 2015
Listed Building Consent for alterations to provide additional trading unit and storage space

15/00944/FULL - PERMIT date 30th July 2015
Alterations to provide additional trading unit and storage space

15/00578/FULL - DELETE date 15th June 2015
Alterations to provide additional trading units and storage space

12/01435/ADVERT - REFUSE date 5th December 2012
Advertisement Consent to display one non-illuminated fascia

10/00004/ADVERT - PERMIT date 4th March 2010
Advertisement consent for the replacement of 1 non illuminated fascia sign

03/00590/CAC - PERMIT date 1st August 2003
Conservation Area Consent to demolish wall

03/00589/FULL - PERMIT date 3rd June 2004
Environmental enhancement scheme for the erection of new market buildings, alterations to existing market buildings, re-roofing of youth centre, rebuilding of western boundary wall, alterations to footpath, car park and landscaping

01/00670/FULL - PERMIT date 9th August 2001
Installation of CCTV cameras

00/00303/ADVERT - PERMIT date 20th April 2000
Advertisement Consent for the display of illuminated fascia

00/00302/FULL - PERMIT date 27th April 2000
Installation of new shopfront

99/03243/CAC - PERMIT date 21st December 1999
Conservation Area Consent for the demolition and re-building of a 16 metre length of masonry wall

99/02464/FULL - PERMIT date 25th June 1999
Construction of external access stairs at rear to serve first and second floors and facilitate internal alterations at ground floor level

95/01163/FULL - PERMIT date 25th August 1995
Installation of CCTV Surveillance cameras (nine number)

95/00160/ADVERT - PERMIT date 20th April 1995
Consent to display an illuminated shop sign and projecting sign

93/00334/FULL - PERMIT date 15th October 1993
Installation of security roller shutters

90/00890/FULL - REFUSE date 16th August 1990
Erection of shopping development

89/00738/FULL - PERMIT date 12th July 1990
Erection of shopping centre comprising shop units public toilets, surface car parking, public house and refurbishment of existing Market Hall

89/00740/LBC - PERMIT date 17th August 1989
Conservation Area Consent for demolition of buildings and walls (as defined on the submitted drawings)

89/00738/FULL - PERMIT date 12th July 1990
Erection of shopping centre comprising shop units public toilets, surface car parking, public house and refurbishment of existing Market Hall

87/01992/FULL - DEMCON date 17th May 1988
DEEMED CONSENT for alterations to vehicular access and accommodation works

86/01163/ADVERT - PERMIT date 9th September 1986
Consent to display one illuminated shop sign and one hanging sign

86/01112/FULL - PERMIT date 29th August 1986
Installation of shopfront, internal alterations

83/01918/ADVERT - PERMIT date 31st January 1984
Consent to display non-illuminated information board (40" x 30")

83/00418/ADVERT - REFUSE date 18th April 1983
Consent to display an illuminated projecting sign, 940mm x 455mm

78/00435/FULL - DEMCON date 25th May 1978

DEEMED CONSENT for the change of use from back yard to public car park, construction of access and enclosure

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

COR11 – Flooding

COR12 – Development Focus

COR13 – Tiverton

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

AL/IN/3 – Public open space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High Quality Design

DM3 – Sustainable design

DM6 – Transport and Air Quality

DM7 – Pollution

DM8 – Parking

DM16 – Town Centre Development

DM27 – Development affecting Heritage Assets

CONSULTATIONS

HIGHWAY AUTHORITY - 2 January 2019 - no observations to make

TIVERTON TOWN COUNCIL - Town Council is disappointed with these plans for the rejuvenation of this part of the town. It is felt that the proposal is aesthetically displeasing and does not fit in with the Conservation Area and the many historic building in the area, including the market building. We would have liked to have seen the opportunity used to replace the horrible flats above the shops by the entrance to the market. Whilst liking the idea of opening up the entrance from Fore Street we feel there is a lost opportunity with this proposal.

The design of the mixed building of shops and residential use is out of keeping with the area and looks more like a warehouse

We feel that the designers should be asked to look again at this proposal and come up with something more in keeping with the area. We therefore cannot support the application

PUBLIC HEALTH - 7 January 2019

Contaminated Land	No objections to this proposal
Air Quality	No objections to this proposal
Environmental Permitting	No objections to this proposal
Drainage	No objections to this proposal
Noise & other nuisances	Before the commencement of development, 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 and manage Heavy/Large Goods Vehicle access to the site. 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 highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.
Housing Standards	No comment
Licensing	No comments
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 this proposal enforced by HSE.

Informative: 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.

ECONOMIC DEVELOPMENT - 02.01.2019

Economic Development is fully supportive of this application. There will be a net increase of commercial space created through this redevelopment, and the impact it will have of opening up access to the Pannier Market will be an improvement to the town centre. The development could be used to provide good quality space, particularly for young businesses (1-3 years) growing into their first commercial units.

REPRESENTATIONS

One letter of objection has been received and summarised as follows:

- There is no need for additional retail space in this area except possibly in the Pannier Market itself;

- The fairly recent reduction of retail space in the market was a particularly ill-advised move;
- The proposed alterations to the Fore Street frontage will only serve to draw attention to 1960s buildings. Why not remove the offending buildings altogether so as to make this approach to the Market really open?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The development proposes to deliver the following:

- Provision of four additional retail units;
- Provision of three, two bedroom flats;
- Improved public realm on Fore Street and link to the Pannier Market;
- Improved signage and wayfinding advertising the Pannier Market;
- Improved streetscape between Fore Street and the Pannier Market.

In order to complete this development it is proposed to demolish the ground floor area of 34 Fore Street to provide a much wider, modern and attractive entrance/passageway from Fore Street to the Pannier Market.

The site is in the primary shopping area of the town centre of Tiverton. The site is close to the bus station as well as a number of public car parks. The site is easily accessible to those using the existing services and facilities on offer within the town centre. The site is in a conservation area and close to a number of listed buildings.

The main material considerations in the determination of this application are:

- 1. Policy**
- 2. Implications of proposed demolition and impact of additional retail units on the Town Centre**
- 3. Design and appearance of development and visual impact on the built environment**
- 4. Provision and design of residential units in the town centre**
- 5. Impact on Heritage Assets**
- 6. Access and parking arrangements**
- 7. Drainage**
- 8. Ecology**
- 9. S106 Obligations**
- 10. Planning 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, 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 'retail' needs of the community will be met through the provision of 10,000 square metres of retail (A1) sales floorspace, COR6 (Town Centres) states that new shop uses should contribute to the vitality and viability of Town Centres, 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 that are well integrated with neighbouring properties, and appropriate drainage. 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. DM14 and DM15 concern the design and sizes of housing (DM15 has been superseded by the Nationally prescribed space standards). Policy DM16 covers town centre developments. Policy DM21 deals with the protection of employment land, Policy DM27 outlines the assessment required for development which affects heritage assets. An assessment of the proposed development is carried out in line with the above policies through the rest of this report.

2. Implications of proposed demolition and impact of additional retail units on the Town Centre

The NPPF, policy COR6 MDCS and policy DM16 LP3 overtly encourage the development of town centres, in this case the town centre of Tiverton. Policy COR6 (town centres) states that the viability and vitality of the Tiverton will be protected and enhanced by positive management so economic regeneration and heritage reinforce each other, through: positive measures of enhancement and regeneration including the promotion of new shops. This policy approach is echoed in policy DM16 LP3 which promotes sustainable growth of Tiverton and supports the provision of retail development where it retains or enhances the town centre's historic character and appearance, vitality and viability; sustains or enhances diverse town centre uses, and customer choice, specifically referring to and encouraging the incorporation of residential accommodation above ground floor level where possible and where development is accessible by public transport, walking and cycling.

The Council's Economic Development officer was consulted on the application and he stated that he supported the application *"as there will be a net increase of commercial space created through this redevelopment, and the impact it will have of opening up access to the Pannier Market will be an improvement to the town centre. The development could be used to provide good quality space, particularly for young businesses (1-3 years) growing into their first commercial units"*.

The development would result in the loss of the ground floor retail area of 34 Fore Street as this would be demolished to make a wider and more attractive entrance into the Pannier

Market to the north of the site. However, the development would also result in the construction of three new retail units in a single building to the north of the site, the conversion of an existing store to form a retail unit and improvements to the display window arrangements of another retail unit, resulting in the use of previously used land as promoted by policy COR7 MDCS. While one retail unit would be lost, 4 new retail units would be provided, resulting in a net increase of commercial retail floorspace in the primary shopping area of Tiverton town centre.

The provision of additional retail floorspace does not conflict with either national and local planning policies and the principle of the retail provision is supported.

3. Design and appearance of development and visual impact on the built environment

The development proposes to deliver the following:

- Provision of four additional retail units;
- Provision of three, two bedroom flats;
- Improved public realm on Fore Street and link to the Pannier Market;
- Improved signage and wayfinding advertising the Pannier Market;
- Improved streetscape between Fore Street and the Pannier Market.

In order to complete this development it is proposed to demolish the ground floor area of 34 Fore Street to provide a much wider, modern and attractive entrance/passageway from Fore Street to the Pannier Market.

Policy COR2 MDCS requires that development will sustain the distinctive quality, character and diversity of Mid Devon's assets through: high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. Policy DM2 LP3 repeats the requirement for high quality design and seeks development that indicates an understanding of the site and surroundings; makes efficient and effective use of a site; contributes positively to local character; creates safe and accessible places and visually attractive places that integrate well with surrounding buildings and streets. Development must also include appropriate drainage (see section 7).

The physical works to 34 Fore Street include the demolition of the ground floor retail unit, provision of a new entrance canopy (ultimately with signage) to the front of no.34 to project into Fore Street, and provision of Corten steel panels to provide high level signage advertising the 'Pannier Market', with letters running vertically reaching a height that is greater than the flat roof of the building and a similar height to the parapet of 36 Fore Street. The proposals would provide a wider, more modern and attractive entrance to the Pannier Market and Market Walk shopping area beyond while also providing a fresher look to this part of Fore Street. A comprehensive review of the illumination within the new passageway and to the west of the new building will also help to improve the overall appearance of this area of the town centre.

It is also proposed to insert two new display windows into the west elevation of 36 Fore Street (currently 'The Works'). These display windows would look into the widened passageway and provide an active frontage on the west elevation which is currently a blank wall. The display windows are proposed to be powder coated aluminium of a simple design, the final colour of which will need to be determined.

Toward the rear of 36 Fore Street it is proposed to convert an existing store into a retail unit. This would require the provision of openings into an old, currently rendered wall. The principle of the openings is acceptable subject to agreeing details of the fenestration. The conversion of this space to form a smaller, separate retail unit would help provide a more diverse commercial opportunity within the town centre.

A further new opening is required within the existing west elevation of 36 Fore Street. In the area that currently forms the rear yard of no.36 it is proposed to provide a new gated access, to replace the existing access that would be lost as a result of erecting the proposed mixed used building. The configuration of this gated access is considered to be acceptable.

At the northern end of 36 Fore Street it is proposed to erect a mixed use building to comprise of three retail (A1) units on the ground floor with three flats above. The building has a cohesive design that responds well to the character and appearance of the surrounding built environment. The building is tall as it would contain three floors of accommodation, albeit that the third floor is within the roof space. The land level is higher at the northern end of the site and as a result the building would be approximately the same height as the full height three storey buildings that front onto Fore Street to the south.

The ground floor (retail element) has a distinctively different character and appearance to the flats above, however the two uses of the building are brought together in a cohesive and attractively designed building. Two of the retail units on the ground floor are predominantly glass, with the steel supports likely to be visible within the building. The third unit (southern end) forms a link between the older parts of 36 Fore Street and the new development by retaining a stone façade with more traditional door and window arrangement, as well as having a stone facade on the southern gable end at ground floor level. Due to the levels change across the site it is currently unclear how unit 3 would be accessed as the door threshold would be higher than the adjacent walkway. None of the three retail units are proposed to have traditional fascia signage, it is suggested through the design of the facades of the retail units that advertisement would be either within store or involve glass etching.

The first and second floors of the building incorporate the use of traditional materials (facing brick and slate roof) with a contemporary, asymmetrical shaped building in order to maximise the available space within the building. The result is considered to be a design that successfully combines traditional materials with a modern shaped building which incorporates a desired mix of retail and residential uses in this town centre location.

The fenestration on the building enables the development to address the street frontage with first floor windows providing natural surveillance of the public realm below. The pattern and design of the fenestration is considered to be acceptable and reflects the contemporary design elements of the building. All windows and doors are proposed to be powder coated aluminium, final colour to be agreed. The fenestration detailing is similar across the site, with simple additional display windows for the existing retail units in the west elevation (passageway facing elevation) of 36 Fore Street and more detailed, yet similar approach to fenestration for the 4 new retail premises. The flats are proposed to have windows that have detailing more akin to a residential appearance.

The proposed design respects its surroundings and can create a high quality place which takes into account the physical context, local character and surrounding density and land use mix. The design will create a building with character and provide improved views from a listed building. The development as a whole, including the proposals to the Fore Street

elevation of 34 Fore Street will provide an active street frontage that overall will improve the streetscene and public realm. The remaining external appearance of no.34 is not architecturally inspiring and provides future opportunities for improving the appearance of Fore Street.

Overall, the site layout is considered to create a high quality place which takes into account the physical context, local character and surrounding density and land use mix, in accordance with policy COR2 MDCS and DM2 LP3.

4. Provision and design of residential units in the town centre (including impact on occupiers nearby residential properties)

Policies COR1, COR3, COR6, COR12 and CO13 of the MDCS all encourage the provision of new homes within Tiverton. Specifically policy COR6 (town centres) states that the viability and vitality of the Tiverton will be protected and enhanced by positive management so economic regeneration and heritage reinforce each other, through: positive measures of enhancement and regeneration including the promotion of new homes. This policy approach is echoed in policy DM16 LP3 which promotes sustainable growth of Tiverton and supports the provision of residential development where it retains or enhances the town centre's historic character and appearance, vitality and viability; sustains or enhances diverse town centre uses, and customer choice, specifically referring to and encouraging the incorporation of residential accommodation above ground floor level where possible and where development is accessible by public transport, walking and cycling.

The three flats are in the town centre and meet the policy aspirations of DM16 as the building would have a mixed use; providing three retail (A1) premises on the ground floor and three 2 bedroom flats/maisonettes above.

Policy DM14 LP3 refers to the design of new housing and requires design to take account of the physical context of the site and local character as well as delivering: adequate levels of daylight and sunlight; suitably sized rooms, adequate storage, external space for recycling, refuse and cycle storage, adaptable accommodation, private amenity space an sustainable approach to design. Policy DM15 refers to the overall size of dwellings and is considered to have been superseded by the nationally prescribed space standards. Each of the flats meet or exceed the National floor space standards in terms of the overall floor space provided and the properties are provided with inbuilt storage.

Within the proposed 3 flats it is proposed to provide living space on the first floor and two bedrooms and bathroom on the second floor. The location and orientation of the flats will maximise natural surveillance of the public realm to the west and north of the development. The flats would be accessed from a communal entrance onto the Pannier Market. Each of the flats will have access to external storage for bikes and bins in the form of hardstanding to the rear of the building to ensure the Pannier Market and walkways are not blighted with bins. These points are easy to access for all of the flats. A stairwell rises to first floor level, from which each of the flats are accessed. Due to the layout, unit 1 would benefit from an outside seating/balcony that would be screened from the Pannier Market to the north by a suitable screen, details of which are to be agreed. Units 2 and 3 would not have any private amenity space which is not uncommon in a flatted development. However, due to the town centre location of the development occupiers would be able to reach public parks and open spaces readily easily.

Overall, the dwellings provide adequate and adaptable space for future occupiers in accordance with policies DM14 and DM15 (superseded by the National Space Standards).

Policy DM2 LP3 requires development to demonstrate a clear understanding of the characteristics of the site, its context and surrounding area as well as making a positive contribution to local character and resulting in visually attractive places that are well integrated with surrounding buildings, streets and landscapes that do not have unacceptably adverse effects on the privacy and amenity of the proposed or neighbouring properties that takes account of architecture; siting, layout, scale and massing, orientation and fenestration and materials, landscaping and green infrastructure. The plans and design and access statement indicate that the materials proposed reflect the locality with a simple palette comprising of predominantly facing brick and stone walls and slate roof. Two of the new ground floor retail units will be predominantly glazed with the steel columns visible internally. The design is intended to provide contemporary and interesting retail spaces on the ground floor while providing 3 residential properties above in a single building that is attractive, the external appearance of which sits comfortably alongside the surrounding historic built environment. The design is aimed to give the new streetscene within this part of the conservation area some variation, adding interest and character to the development. The windows and doors of the flats are proposed to be powder coated aluminium, final colour to be agreed. The fenestration detailing is similar across the site with the fenestration of the flats having a slightly more residential character.

The nearest residential properties are within the upper floors of Fore Street properties and a linear building to the north of Fore Street and east of the application site. Due to the orientation of the flats and the placement of fenestration it is considered that the development will not have adverse impacts on the occupiers of nearby residential properties and access to existing residential properties will not be prevented by the proposed development.

The overall design is generally good, in accordance with policies DM2 and DM14 LP3.

5. Impact on Heritage Assets

The site is within the conservation area and is close to listed buildings and has an effect on the setting of one listed building, the Pannier Market. Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities 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).

The Court of Appeal has made it clear that the statutory duties in relation to sections 66 and 72 do not allow a local planning authority to treat the desirability of preserving the settings of listed building and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building or character or appearance of a conservation area, it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrebuttable. It can only be outweighed by material considerations powerful enough to do so. 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 approach is reinforced by policy DM27 LP3 and it requires 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. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

There are a number of listed buildings close to the application site, both to the south and north of the site. The listed building with the closest relationship to the application site is the Pannier Market immediately north of, but separated from the application site by, an area of existing hard landscaping. The significance of the Pannier Market is in the historical use, fabric and setting of the building. There is also significance to the Pannier Market associated with its town centre location.

Historic England's Good Practice Advice in Planning Note 3 – The Setting of Heritage Assets, requires that we consider views from and to heritage assets. The application site has been visited and views include those from and toward publicly accessible places. It is not unreasonable to consider that the proposed 3 storey mixed use building at the northern part of the site (retail with residential above) would be similar in height to the ridge height of 34-36 Fore Street. The new development will be clearly visible from the listed Pannier Market and surrounding conservation area. There will be a noticeable change of the views from the grade II listed Pannier Market to the south toward Fore Street and the setting of this listed building and the appearance of the conservation area would be affected.

Revised plans of the proposed development have been received following positive discussions with the Agent. Prior to the application being considered by the Planning Committee it is expected that the comments of the Conservation Officer will be received, these will be provided to the Planning Committee to assist with their assessment of the proposed development.

A heritage statement has been submitted with the application. This report concludes that the application site is situated within the centre of the medieval, and potentially Saxon, core of Tiverton, within the Tiverton Conservation Area which is identified as an asset of **high significance**. It highlights that almost all of the data on the Devon Historic Environment Record is related to this historic settlement with a few relating to earlier activity. With regards to the demolition of ground floor of 34 Fore Street the report indicates that associated groundworks have the potential to expose remains associated with earlier buildings along the street frontage, but that proposed alterations to the front of the building will **enhance** the character of Fore Street and the Tiverton Conservation Area. The report also identifies that the new mixed-use building is located within the historic rear of no. 36 Fore Street, and groundworks have the potential to expose rubbish pits, the demolished western boundary wall of no. 36 Fore Street, and the remains of the outbuildings attached to the north and west boundary walls (an archaeological condition is to be required to ensure any archaeology found is accurately recorded). The building is located within the setting of the Grade II Listed Market Hall (Pannier Market) and Market Booths West of the Market Hall, with the market buildings dating to 1830 which are assets of **medium significance**. The report concludes that whilst the new building will represent a change to the setting of these

buildings it is not considered that it will change any element of their setting that contribute towards their significance and **no change** to their significance is predicted.

Further comments are awaited from the Conservation Officer and the Devon Historic Environment team have been consulted. Planning Committee will be provided with these comments and any additional conditions prior to the discussion of the application.

6. Access and parking arrangements

Policy COR9 MDCS development to improve accessibility for the whole community, reduce the need to travel by car and increase public transport use, cycling and walking; including by meeting the social and economic needs of the community in locations most accessible to those who need to use them. This approach is reinforced by policy DM2 LP3 that requires development to create safe and accessible places that encourage sustainable modes of travel.

The application site is in the town centre and is therefore easily accessible to those who use the services and facilities within the town. It is partially within the primary shopping area of Tiverton. The provision of new retail units will add to the commercial opportunities and retail experience within the town, and access to these for deliveries etc would be the same as for the existing units of Fore Street and as those within the Pannier Market. Access to Fore Street provides only restricted traffic, however the proposed retail units would be accessible via the Panier Market to the rear of Fore Street as is currently the case for 34 -36 Fore Street. The Highway Authority have not objected to the development. The access of additional retail outlets from the pannier market is considered to be acceptable and requires the use of private land rather than highway. The retail element of the proposal is in accordance with policy COR9 MDCS and policy DM2 LP3.

Policy DM8 LP3 requires development to provide an appropriate level of parking, taking into account the accessibility of the site, including the availability of public transport and the type, mix and use of development. It also requires that sites encourage the maximum use of sustainable modes of transport, including provision for bicycles. In this instance there is no allocated parking proposed for either the retail or residential elements of development. However, the site is in the town centre where there is easy access to the services and facilities of the town. It is also very close to the bus station and other bus routes. It is not considered necessary or appropriate to provide parking facilities in this location for this specific development, however, future occupiers would be able to pay to park their vehicle in one of the public car parks close to the site if required.

With regards to access and parking the development is considered to be in accordance with policy COR9 MDCS and policies DM2 and DM8 LP3.

7. Flooding and drainage

Policy COR11 MDCS requires that development does not increase the risk of flooding of properties elsewhere. The site is within Flood Risk Zone 1, and the Flood Risk Assessment (FRA) submitted with the application indicates there is no identifiable risk of flooding. The FRA for the development has been assessed in line with NPPF and it concluded that the development can be undertaken in a sustainable manner, without increasing the flood risk to existing properties.

Policy DM2 LP3 requires development to include appropriate drainage and sustainable drainage systems and connection of foul drainage to a mains sewer where available. The FRA indicates that the development will not put any additional risk onto third parties. Should there be an exceedance storm event or failure in the storm water drainage network, the site will be designed to ensure that water is carried away from the proposed dwellings, but due to

the very level nature of the site and it being enclosed by other development, water will pond on the surface.

The FRA indicates that the proposed development would not create any increase in flood risk to the local area or downstream or indeed to the proposed development. The new drainage network for the site will have capacity to deal with greater storm events, and subject to further on site investigations it is proposed to, where possible, remove existing impermeable paving and replace it with permeable or tanked permeable paving which will reduce the discharge off site of storm water drainage to the SWW combined sewer network. The report recommends mitigation measures to help ensure that the development does not lead to an increased risk of either on site or offsite flooding. Details of the mitigation measures to be incorporated in the development will be required by condition.

It is considered that the development of the site will not lead to increased flood risk to other properties and that the site can be suitable drained with some drainage improvements through the use of permeable or tanked permeable paving. Overall the application is considered to be in accordance with policy COR11 MDCS and policy DM2 LP3.

8. Ecology

The application is supported by a completed wildlife trigger list. Although the application refers to demolition, which can often result in ecology surveys being required, the only demolition to take place is the ground floor of 34 Fore Street. As the whole building is not being demolished (perhaps importantly the roof is not being removed), it is not considered that any further information is required regarding potential impact of the development on biodiversity assets.

9. S106 Obligations and local finance considerations

Policy AL/IN/3 Allocations and Infrastructure Development Plan Document (AIDPD) and the Supplemental Planning Document "Funding public open space through development" indicate that developments including new housing will provide 60 squared metres of equipped and landscaped public open space per market dwelling, to include children's play areas, sports areas, informal open space and allotments in appropriate proportions, with safe and convenient access on foot or cycle. Where it is more appropriate for open space to be located off the site, contributions are sought per dwelling. In this instance a financial contribution of £2700 is required toward the provision of youth equipment at West Exe neighbourhood park. This contribution is to be secured via a Section 106 agreement. Subject to the signing of a agreement for the contribution toward public open space provision the application will be considered to be in accordance with policy AI/IN/3 AIDPD and the SPD "Funding public open space through development".

10. Planning balance

The development would provide improvements to the public realm in Fore Street, provide an improved and more attractive entrance to the Pannier Market as well as provide four new retail units in the primary shopping area and three flats within a sustainable location in the town centre within an attractive building the design of which will sit comfortably alongside the existing built environment in accordance with policies COR1, COR2, COR3, COR6, COR12, COR13 MDCS and policies DM2, DM14, DM15, DM16 LP3, nationally prescribed space standards and the NPPF. Additionally the development will not result in any increased flood risk to other properties and could result in some improvements to the surface water drainage system currently in place on the site in accordance with policy COR11 MDCS and policy DM2 LP3. The development can be suitably accessed and there is no requirement for

parking provision in accordance with policies COR9 MDCS and DM8 LP3. The development would not have any adverse impacts on the ecology of the area and appropriate financial contribution toward the off site provision of public open space will be secured in accordance with policy AI/IN/3 AIDPD and policy DM2 LP3. The development will have an impact on the setting of a listed building and the character and appearance of the conservation area and in this regard the application partially conflicts with the requirements of policy COR2 MDCS, policy DM27 LP3 and section 16 NPPF. On balance the public benefits associated with the proposed development, including the provision of 4 new retail units that would be of benefit to the economy of the town, as well as the provision of three flats in a sustainable town centre location is considered to outweigh the conflict with heritage policies and the application has been recommended for approval subject to 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. Prior to commencement of any building works on the site the local 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 and 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. Arrivals of deliveries or collections of goods to and from the retail units including the collection of packaging, waste or other items shall only take place between the hours of 07:00 and 22:30 Monday to Saturday and 08:00 – 21:00 on Sundays and bank holidays.

6. Prior to their use on site, details and/or samples of the materials to be used for all the external surfaces of the buildings (including the Corten panel, and projecting canopy on 34 Fore Street) shall have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.

7. A scheme for the illumination of the passageway between 34 and 36 Fore Street and the hard landscaped area to the west of the new mixed use building passageway between 34 and 36 Fore Street and other external areas within the application site hereby approved shall be submitted to, agreed in writing by the local planning authority and implemented, prior to the first occupation of either the retail or residential units. The illumination scheme shall thereafter be retained and maintained.

8. 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 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.

9. Prior to the commencement of construction of the new building hereby approved, a detailed design of the proposed permanent surface water drainage infrastructure/system shall be submitted to and approved in writing by the local planning authority. The proposed system shall include the mitigation measures set out in the submitted flood risk assessment where possible. The development shall be carried out in accordance with the approved details and thereafter be so retained.

10. Prior to the first occupation of the three flats hereby approved, the privacy screen proposed on the north and east elevations of the mixed use building shall be erected in accordance with details of the materials, height, design and method of permanent fixing of that shall first have been submitted to and agreed in writing by the local planning authority. Once provided the screen shall be permanently retained and maintained 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. In the interests of highway safety and to safeguard the amenities of the occupiers of neighbouring properties and pedestrians moving through the town centre in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).

4. To safeguard the amenities of the occupiers of neighbouring properties and people using the facilities and services in the town centre in accordance with policies DM2 and DM7 of the Local Plan Part 3: (Development Management Policies).
5. To ensure that the proposed development does not prejudice the amenities of neighbouring properties in accordance with policy DM2 Local Plan Part 3: (Development Management Policies).
6. 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].
7. In the interest of pedestrian safety and to ensure that adequate illumination is provided during dark hours that reinforces the quality of design of the development in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of Local Plan Part 3: [Development Management Policies].
8. In order to minimise the impact of the proposed development on the vitality and viability of Tiverton Town Centre and maximise the economic potential of the new retail units, due to the position of the development close to other commercial uses in accordance with Policies DM2 and DM16 Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
9. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
10. To safeguard the amenity levels enjoyed by the occupiers of the proposed flats and to ensure that this element of the development positively contributes to the overall character and appearance of the new building in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

INFORMATIVES

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/>.

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.

REASON FOR APPROVAL OF PERMISSION

The proposed development is considered to be supportable in policy terms. It is considered that the development will have a positive impact on the viability or vitality of the town centre. The retail use of the units proposed will contribute to customer choice within the town of Tiverton. The development is considered to be well designed and is not considered to result in a detrimental impact on the character of the area or result in 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 National Planning Policy Framework as a whole, as well as being in accordance with Policies COR1, COR2, COR6, COR7, COR9, COR11, COR12 and COR13 of the Mid Devon Core Strategy [Local Plan Part 1] Tiverton and Policies DM1, DM2, DM6, DM7, DM8, DM16, DM21 and DM27 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.