

PLANNING COMMITTEE AGENDA - 27th July 2022

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>21/00222/MFUL - Erection of a retail foodstore with associated parking, access, servicing and landscaping at Playing Field at NGR 284091 100385, Commercial Road, Lords Meadow Industrial Estate.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
02.	<p>22/00687/HOUSE - Retention of building for use as additional living accommodation at Old Parsonage Cottage, High Street, Hemyock.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
03.	<p>22/00672/FULL - Formation of residential parking area and landscaping works at Development Site at NGR 295336 112490, St George's Court, Tiverton.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
04.	<p>22/00062/FULL - Variation of condition 2 of planning permission 20/00146/FULL for the substitution of house type plans at Land at NGR 295241 122012, South of Elizabeth Penton Way, Bampton.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 deed of variation.</p>

APPLICATION NO: 21/00222/MFUL

CALL-IN

The Planning Committee on the 10th March 2021 agreed that the following major application be brought before the Committee:

- 21/00222/MFUL - Erection of a retail foodstore with associated parking, access, servicing and landscaping - Playing Field at NGR 284091 100385 Commercial Road Lords, Meadow Industrial Estate, CREDITON Devon

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement (on such terms as shall be agreed by the Development Management Manager) to secure:

- 1) A financial contribution of £87,289 to be allocated and spent towards measures necessary to assist with the flow of traffic through the Western Gateway, St Lawrence Green and the High Street in CREDITON to address air quality within the CREDITON Air Quality Management Area.
- 2) A financial contribution of £400,000 towards the relocation process and provision of improvement playing fields in light of the requirements of Policy CRE6 requiring the relocation of CREDITON Rugby Football Club and a replacement pitch for CREDITON Rugby Football Club ('CRFC').
- 3) To secure the funding of £100K for Devon County Council to deliver a Zebra Crossing on Commercial Road which includes realignment of kerbing in Hawkins Way.

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of a retail foodstore with associated parking, access, servicing and landscaping on Playing Fields at NGR 284091 100385, Commercial Road, Lords Meadow Industrial Estate, CREDITON. The site forms part of the playing fields located off Commercial Road and Exhibition Road used by CREDITON Rugby Football Club with the site gradually sloping from west to east. The site is located on the eastern side of the town, approximately 850 metres northeast of the town centre.

The development proposals involve the construction of a new Lidl store with a gross internal area (GIA) of 2,022sq.m with a net sales area of 1,256sqm (80% for convenience goods sales and 20% comparison goods sales) with site access to be provided from Commercial Road in the form of a new priority junction arrangement. A total of 114 car parking spaces (2 electric vehicle charging points) and 12 cycle parking spaces would be provided in support of the store.

In terms of the appearance of the building, the west elevation facing Exhibition Road would implement 4m glazing to provide natural light and the shopfront would wrap around a fraction of the south side elevation to comprise the customer entrance lobby. The elevations would consist of high level grey cladding, with red bricks and some feature areas would consist of blue/grey brick piers and plinth beneath. There would also be silver eaves guttering and rainwater pipes. The loading dock gable north elevation of the store would have a rendered treatment with the silver metal composite panels above. The silver metal composite panels would increase in depth along this elevation due to the rake of the mono pitch roof. Roof cladding would be standing seam in silver with solar panels fixed onto the roof slope.

Within the supporting documentation, it is outlined that the development would also provide funds to help facilitate the relocation of Crediton Rugby Football Club (CRFC) whereby outline planning permission has been approved under 17/00348/MOUT for the residential development of up to 257 dwellings; up to 5 Gypsy and Traveller pitches; 8.6 hectares of land for the relocation of Crediton Rugby Club; up to 1.1 hectares of land for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations at Pedlerspool/Creedy Bridge.

APPLICANT'S SUPPORTING INFORMATION

Plans, Air Quality Assessment, BREEAM 2018 Pre-Assessment, Carbon Reduction Statement, Design and Access Statement, Drainage Strategy, Flood Risk Assessment, External Lighting, Noise Impact Assessment, Planning and Retail Statement, Preliminary Ecological Appraisal, Statement of Community Involvement, Transport Assessment, Travel Plan, Tree Constraints Report and Arboricultural Impact Assessment, Waste Audit Statement, Geo-Environmental Desk Study Report, Agronomy survey

All background papers can be viewed on the planning file through public access on the Council Website (at <https://planning.middevon.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QO98WWKS07T00>) in line with the requirements of s100D of the Local Government Act 1972.

RELEVANT PLANNING HISTORY

96/01974/ADVERT - REFUSE date 21st March 1997 Consent to erect a signboard for the display of advertisements

97/01067/FULL - REFUSE date 9th December 1997 Advertisement consent for the installation of a 1.22m x 2.44m signboard displaying details of match dates/times etc.

99/02074/FULL - REFUSE date 26th November 1999 Construction of Retail Food Superstore (Class A1) together with car parking, and new road access

00/00258/FULL - REFUSE date 4th October 2000 Construction of retail food superstore (Class A1) with car parking, new road access and junction with Exhibition Road

00/00617/FULL - WD date 15th May 2000 Consolidation of use of land as a sports/playing field including provision of an athletics track and cricket square in addition to the current rugby and soccer use

00/01253/OUT - WD date 31st October 2000 Outline for a car park and a sports pavilion

14/01925/DCC - DCCGNT date 17th December 2014 Regulation 3 application for retention of access to rugby grounds from A3072 at 1 Exhibition Road - PLANNING PERMISSION GRANTED 17TH DECEMBER 2014

17/00687/FULL - WDN date 22nd May 2017 Erection of a 10m lighting column and associated electrical feeder pillar together with underground cabling to provide emergency lighting for Devon Air Ambulance

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 - Sustainable development priorities
S2 - Amount and distribution of development
S6 - Employment
S7 - Town centres
S8 - Infrastructure
S9 - Environment
S12 - Crediton
CRE5 - Pedlerspool, Exhibition Road
CRE6 – Sports fields, Exhibition Road
CRE11 - Crediton Infrastructure
DM1 - High quality design
DM2 - Renewable and low carbon energy
DM3 - Transport and air quality
DM4 - Pollution
DM5 - Parking
DM14 - Town centre development
DM15 - Development outside town centres
DM25 - Development affecting heritage assets
DM26 - Green infrastructure in major development

CONSULTATIONS

Crediton Town Council - 09.02.2022

It was resolved to recommend objection to the plan to remove the hedge on the north side as this is purely planned for cosmetic benefit to Lidl which would result in the loss of green corridors and bio-diversity. It was agreed that Lidl need to plant more trees, especially along the south boundary with Commercial Road. It was further resolved to request that a suitable design and location for a crossing is supplied urgently before the application can be approved.

Earlier responses were as follows:

Crediton Town Council – 11.10.2022

It was resolved to recommend objection on the grounds of insufficient contribution to increasing biodiversity and the proposal to remove the entire hedgerow on the west side of the site. Concerns remain relating to the lack of a design for a pedestrian crossing.

Crediton Town Council - 10.08.2021

It was resolved to object to the application on the following grounds:

- The application does not reflect the current, urgent need to design for climate change
- Insufficient biodiversity net gain due to loss of trees, lack of information on replacements, loss of hawthorn hedge without replacement coupled with insufficient planting of new trees for natural shade and to improve the street scene especially on the south side; too few bat and bird boxes to encourage wildlife and no ecology plan;
- Lack of design information relating to the proposed swales for water capture; lack of information on re-using this water or whether they are an opportunity for increasing biodiversity; no information on using water captured in proposed water butts.

- The design of the development is tight up to its boundaries and offers very little flexibility for mitigating its impact on the area, suggesting that the site is too small for this development or the development is too large for the chosen location
- Lack of information relating to the pedestrian crossing proposals and no agreed design for it
- Loss of allocated housing land within the Local Plan.

Local Highway Authority - 27.01.2022

Further Information received

The Applicant has agreed to enter into a Section 106 Agreement to secure the funding of £100K for Devon County Council to deliver the Zebra Crossing on Commercial Road which includes realignment of kerbing in Hawkins Way. The trigger for this money to be released and the work to be carried out will be agreed and secure within the S106.

Therefore the County Highway Authority has no objections to the proposal subject to the proposed conditions.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, wish to recommend conditions on any grant of planning 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.;
- (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.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway

REASON: To prevent mud and other debris being carried out on to the public highway

3. No part of the development hereby approved shall be commenced until: The access road has been laid out, kerbed, drained and constructed up to base course level for the first 25 metres back from its junction with the public highway The ironwork has been set to base course level and the visibility splays required by this permission laid out A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.

4. Where installed as part of the development, the light source of the proposed floodlighting units should not be directly visible to drivers of vehicles using the public highway.

REASON: To ensure that the floodlighting associated with the proposal / proposed illuminated sign does not result in detriment to the safety of drivers using the public highway.

Earlier responses were as follows:

Local Highway Authority - 19.04.2021

Further Information Provided

The Applicant has provided a response to my previous comments regards the parking spaces provided which show the parking numbers provided for this size of the store would not cause a severe impact on the highway, although the number are not in line with the Local Planning Authority Policy.

With regards the Crossing Point required to ensure a safe route for pedestrians to the store, the Applicant has stated the pedestrian desire line would not be through Hawkins Way or along Commercial Road and the majority would come from Exhibition Way. The County Highway Authority disagree with this information, therefore a Zebra Crossing on Commercial Road will need to be delivered as part of this application to ensure a safe and suitable route for pedestrians is provided.

The County Highway Authority would need to secure the funding required for the TRO for the Zebra Crossing and for this to be secured through a S106 Agreement.

Therefore the County Highway Authority has no objections to the proposal subject to the proposed conditions.

In the event of the Applicant not agreeing with the proposed conditions, the County Highway Authority would like to be re consulted on this proposal.

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 planning 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;

2. Off-Site Highway Works No development shall take place onsite until the off-site highway works to provide a Zebra Crossing have been submitted to and approved by the Local Planning Authority.

REASON: To provide a safe and suitable access for all users.

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 site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway

REASON: To prevent mud and other debris being carried onto the public highway

5. No part of the development hereby approved shall be commenced until:
The access road has been laid out, kerbed, drained and constructed up to base course level for the first 25.00 metres back from its junction with the public highway, the ironwork has been set to base course level and the visibility splays required by this permission laid out, a site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents

6. Where installed as part of the development, the light source of the proposed floodlighting units should not be directly visible to drivers of vehicles using the public highway.

REASON: To ensure that the floodlighting associated with the proposal / proposed illuminated sign does not result in detriment to the safety of drivers using the public highway.

Local Highway Authority – 16.03.2021

The site is accessed off the A3072 a County Primary Route which is restricted to 30 MPH
The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is none
The Applicant has submitted a Transport Assessment which I have the following comments:

Section 3.7 highlights the priority junction at Hawkins Way which also provides a footway link to this area from Mill Street which is highly used, and this proposal will attract more pedestrians to use this route. There is an informal crossing with dropped kerbs In Commercial Road, and with the higher number of pedestrians to be created with this proposal, this crossing would now require this to be a controlled crossing to ensure a safe and suitable for pedestrians to cross the A3072 to access the store.

Section 4.3 Access to the store will be via Commercial Road and the visibility splays on Drawing 104360-SK-001 meets the requirements for the speeds in this area.

Section 4.9 The number of parking spaces required for a store of this size in the Mid Devon Local Plan is above the spaces that are being proposed for the store, therefore the County Highway Authority would need to ensure parking for the store is not on the Highway Network.

The Highway Authority's request the Applicant to supply further information regarding the car parking arrival numbers on an hour by hour basis and what the cumulative position would be.

Section 5.12 The trip rate figure supplied by the applicant has been sourced from TRIC's data which a nationally accepted database

Section 6.5 showing the assessment of the mini roundabout at Exhibition Road/Commercial Road on Table 6.2 with all committed Development and the Proposed store does show this roundabout to not be at full capacity, therefore acceptable

The County Highway Authority cannot put forward a recommendation until the information requested has been received.

Public Health - 08/03/2021

Further Comments:

Noise and other Nuisances:

Plant Noise

A comprehensive noise report has been prepared by Acoustic Consult Ltd dated December 2020. They have evaluated the potential impact of plant noise on the nearest residences and concluded that the likelihood of unacceptable impact is low, primarily because the plant is located remote from residences. We recommend that a condition is included in any approval which requires that the recommendations in this noise report are implemented.

Hours

The proposed delivery and opening hours are 7am to 10pm Monday to Saturday and 10am to 4pm on Sundays. These are acceptable given the nearby residential areas but these hours should be conditioned for deliveries and trading to ensure that they are maintained.

CEMP

A CEMP will be required in order to minimise the impact of vehicle movements and building works on local residents during construction. A suitable condition is:

"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 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.

Reason: to protect the amenity of local residents from unacceptable noise and dust during construction works."

Lighting

Car park and building lighting can impact on residential amenity if it is not carefully designed and located. A report has been prepared by Signify dated December 2020 and this includes an acceptable scheme designed to minimise lateral and upward light pollution. A condition should be included on any approval which requires that the designs and recommendations contained within the Signify report are implemented and maintained.

Earlier comments were as follows:

Public Health – 03.03.2021

Contaminated Land - A contaminated land and geotechnical report has been submitted prepared by Obsidian Geotechnical dated January 2021. They confirm that the historical use was agricultural before the sports fields, however there was a gas works nearby. On site some made ground has been encountered and they recommend an intrusive investigation. We agree with this and therefore recommend the full contaminated land condition for a Stage 2 assessment is included in any approval. 25.02.21

Air Quality - A comprehensive air quality report has been submitted, prepared by Delta Simons dated November 2020. Potential impacts on air quality, particularly with respect to the AQMA in Crediton, have been evaluated and conclude that the addition of traffic associated with the Lidl store will cause no significant residual effects. There is potential for local impacts during the construction phase but these will be addressed within a CEMP. We agree with this evaluation and do not require any further information regarding air quality. 25.02.21

Environmental Permitting - No objection to this proposal 18.02.21

Drainage - The premises will be served by the public sewer system and arrangements for the management of surface water are set out in the application. 25.02.21

Noise & other nuisances - There is the potential for nuisance from plant noise, hours of work, construction activities and light intrusion. Please see detailed comments and recommended conditions below which addresses these concerns. 25.02.21

Housing Standards - No comment 3/3/21

Licensing - No comment 17/02/21

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>

Please consult environmental health on requirements if needed.

For structural requirements this is ideally sought before works start.

The Food Standards Agency website is also a useful source of information

<https://www.food.gov.uk/> . (02.09.19). 03.03.21

Private Water Supplies - Not applicable 17.02.21

Health and Safety - No comments 18.02.21

MDDC Tree Officer - 01.02.2022 (Revised Comments)

The site comprises of the southern end of a recreational ground that has been previously used as a rugby pitch. The site is bordered by two main roads in the west and south aspect. Trees are in groups along the site boundaries. They comprise a mix of native and non-native species that have been planted as part of a landscaping scheme many years ago. They have developed into large, prominent groups that are important in terms of their contribution to the local area.

The application has identified a hedge line of hawthorn to be removal to allow construction of the car park on the western aspect. In addition to this, two further trees on the eastern aspect has been identified for removal. These are a B quality Ash tree and C quality Elm. Due to the dense nature of the group of trees on the eastern aspect the loss of the two tree should not be significant.

Following from previous comment made 04/10/2021 highlighting limited tree planting. The landscape design has been reviewed and amended to include the planting of 13 trees that are a mix of Field maple and English oak. The proposed new tree planting is viewed as acceptable and will contribute to improving the landscape in the immediate area. In addition to the tree planting there is complimentary shrub planting along the western aspect of the site

In summary the proposal will result in a loss of two tree and hedge line. This is generally viewed as not significant. The loss of the tree trees is viewed as limited and suitable mitigated by the new landscape plan identifying further tree planting. The new proposed tree planting is viewed as acceptable and will contribute to the local landscape.

Earlier comments were as follows:

MDDC Tree Officer – 11.10.2021

Information Provided/Reviewed: Tree Constraints Report & Arboricultural Impact Assessment, Arboricultural Impact - Technical Note (Eastern boundary) and Landscape Design and Specification

The site comprises of the southern end of a recreational ground that has been previously used as a rugby pitch. The site is bordered by two main roads in the west and south aspect. Trees are in groups along the site boundaries. They comprise a mix of native and non-native species that have been planted as part of a landscaping scheme many years ago. They have developed into large, prominent groups that are important in terms of their contribution to the local area.

The application has identified a hedge line of hawthorn to be removal to allow construction of the car park on the western aspect. In addition to this, two further trees on the eastern aspect has

been identified for removal. These are a B quality Ash tree and C quality Elm. Due to the dense nature of the group of trees on the eastern aspect the loss of the two tree should not be significant.

No formal tree planting plan has been provided. A landscape plan provided does highlight shrub planting along the western aspect of the site. It's generally felt the current level of planting highlighted is not enough and will not provide adequate screening. In addition the shrub planting on the western aspect the site would benefit from a linear line of extra heavy standard formal tree planting of mixed tree species along the north aspect. This would provide an immediate impact, improving the landscape scheme, providing buffering of the carpark and aspects of the proposed building. From the northern aspect. Additional tree planting should be carried out along the western and southern aspects within the turfed areas to provide further screening of the carpark and building as well as environmental benefits too. In addition to the tree planting around the extents of the site it's would be strongly recommended that tree planting is provided within the confines of the carpark area to achieve a suitable canopy cover at maturity. This would provide shading in the summer months, reducing sun glare, rain water impact, as well as environmental benefits too. It's recognised there would be a loss of parking bay to achieve this.

In summary the proposal will result in a loss of two tree and hedge line. This is generally viewed as not significant. The current level of planting is not sufficient and will not provide adequate screening of the proposal. Additional tree planting should be carried out along the northern, western and southern aspects. In addition tree planting should be proposed within the car park itself to provide suitable tree canopy cover at maturity.

The applicant should review their landscape proposal and include greater quantity of tree planting and encouraged discuss this with the Arboriculture and Case Officer.

Flood and Coastal Risk Management Team (D.C.C.) - 31.08.2021

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 development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.
 - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
 - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (c) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

Following my previous consultation response (FRM/MD/00222/2021; dated 11th August 2021), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant is proposing swales along the northern edge of the car park. The applicant must ensure that the levels of the car park safely fall towards the swales. The applicant must submit cross-sections of the swales when applying to discharge the above condition.

Earlier responses were as follows:

Flood Risk Team - 11.08.2021 - Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations: Following my previous consultation response (FRM/MD/00222/2021; dated 8th March 2021), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. However, the applicant has not clarified how exceedance flows shall be managed.

Flood and Coastal Risk Management Team – 09.03.2021

Recommendation: At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

Observations:

The applicant has proposed to manage surface water via an underground attenuation tank. The applicant has proposed to discharge surface water to the existing South West Water surface water sewer. Greenfield runoff rates for this site must be calculated for the positively drained area only. The applicant must submit correspondence from South West Water to confirm that South West Water will allow a connection into their system.

It is understood that the greenfield runoff rates for the site are low. However, the applicant could achieve a lower discharge rate with a maintainable flow control. The applicant must assess alternative flow controls, and may also need to consider reducing the size of the flow control slightly.

The applicant has noted that above-ground features could pose a safety risk. However, if above-ground features are designed appropriately, they should not pose a safety risk. The applicant could construct suitable above-ground features, such as swales, rain gardens and tree pits in addition to the underground tank. Above-ground features can help treat surface water runoff.

The applicant has noted that they will explore rainwater harvesting, the applicant should explore this. The applicant must clarify how exceedance flows shall be managed.

Sport England - 13.01.2022

Conclusion

On confirmation of the complete details of the replacement playing pitch at Creedy Bridge including works (detailed design) and timeframes secured by a suitable mechanism, Sport England would consider withdrawing its objection to this planning application.

Earlier comments were as follows:

Sport England - 16.08.21

Thank you for the recent consultation and in particular we concentrated on the RPS letter dated 13 July 2021. After consulting the RFU, Sport England have no further comments to those set out in our response dated 10 March 2021 (below). For clarity, the NPPF paragraph number has changed to 99 (from 97) in the recent July publication. If you would like any further information or advice please contact me at the address below.

Sport England – 16.03.2021

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 97) and Sport England's Playing Fields Policy, which is presented within its 'Playing Fields Policy and Guidance Document': https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

The Proposal and Impact on Playing Field

We note from Google aerial images (below) and local conversations that the playing fields are well used, well managed and generally used to deliver rugby associated with Crediton RFC. We also note use by cricket, football and archery. Current aerial image - three rugby pitches on the wider site and 1x rugby pitch within the application site:

There is no 'in date' Playing Pitch Strategy for Mid Devon although one is 'in development', nearing completion of a Strategy based on an assessment of need.

In summary of the application there is a loss of playing field without replacement in accordance with policy. A commuted sum via S106 is being offered to Crediton RFC.

Assessment against Sport England Policy/NPPF

The NPPF (para 97) makes it clear that existing sports facilities (i.e. those which are used for sport, have been in the past or could be used in the future) should be protected unless specific conditions can be met. Fulfilling these conditions demands a proper understanding of the current and future needs and opportunities for sports facilities:

97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- o all or any part of a playing field, or
- o land which has been used as a playing field and remains undeveloped, or
- o land allocated for use as a playing field unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.

One of the five exceptions (E4) states:

The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- o of equivalent or better quality, and
- o of equivalent or greater quantity, and
- o in a suitable location, and
- o subject to equivalent or better accessibility and management arrangements.

This is very similar with criterion b) of para 97 of the NPPF.

Excerpts from our Playing Fields Policy https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy:

What details would Sport England expect an application to provide in order to meet with Exception 4?

57. Where a replacement area of playing field and associated facilities can be provided which are equivalent or better than the existing area of playing field and its facilities, it may be beneficial to sport to take this opportunity. Along with presenting the quantity (area) of the proposed replacement provision, Sport England will expect details to be submitted which clearly demonstrate that any proposed replacement area of playing field and ancillary facilities can be delivered (including to what timescale), the proposed access and management arrangements and how equivalent or better quality will be achieved and maintained.

What is meant by 'equivalent quality'?

58. A new area of playing field being laid out, drained, maintained and provided with the necessary ancillary facilities so as to have the same capability, functionality and flexibility as the existing area of playing field to accommodate playing pitches, matches, training sessions and other sporting activities.

59. The new area of playing field should be capable of providing playing pitches and producing playing characteristics, supported by all necessary ancillary facilities to the relevant standards, to allow the same level of competitive play to take place without requiring any additional maintenance input. For example, if a playing field includes a pitch which is used by a senior county league club, then to achieve the equivalent quality the replacement playing field must be capable of providing for this standard of play without any additional costs being incurred by users, when compared to use of the existing site. This requirement applies equally to the provision of ancillary facilities, such as changing rooms, car parking, fencing and artificial sports lighting.

How should equivalent quality be secured?

60. Details should be submitted with any application proposing replacement provision which include an assessment of the performance of the existing area of playing field, the programme of works (including pitch construction) for the creation of the proposed replacement area of playing field (to ensure it is developed to the required quality), along with a management and monitoring plan. The above details should be undertaken and developed by a suitably qualified and experienced sports turf consultant. Replacement areas of playing field and facilities should satisfy appropriate Sport England and national governing body of sport design guidance.

We note the 2017 outline planning application, reference 17/00348/MOUT, which Sport England does not support. It currently does not have planning permission. The illustrative masterplan

shows 4 adult rugby pitches with clubhouse and community facility with parking. The playing pitches in the application site are located within Flood Zone 3 - which is the highest classification of flooding. Playing field land located in Flood Zone 3 is not recommended nor supported by Sport England. In our response to that application we gave expert advice that in order to assess the suitability of the site to accommodate pitches, it will be important that the ground conditions and pitch specification to prepare the site as a playing field are given careful consideration. Sport England continues to have concerns over the proposed replacement pitches at this site given the location of playing pitches in Flood Zone 3 and no evidence has been prepared in the last 3 to 4 years to prove that our concerns are unfounded. This remains a significant issue.

We understand that the 2017 outline application is subject to the completion of a S106 but no works have been carried out to prove that relocating playing pitches to the site is acceptable and/or achievable. There are risks with this outline application. It does not demonstrate in an acceptable timeframe that the pitch/pitches being lost at Exhibition Road (and others used by Crediton RFC) will be replaced with a high quality playing pitch /playing pitches and will not suffer adversely in any flooding event. On completion of the S106, a reserved matters application will need to be prepared, submitted, consulted upon and approved in a very short timeframe. At this time it is not clear on the timeline of the project leading to a date when replacement pitches will be constructed and operational. There is normally a 12 month period post construction prior to first use. It is unlikely that a high quality replacement pitch will be operational until 2023 or even 2024. In short, there is no evidence required by the local plan allocation CRE6 as well as Government guidance and Sport England policy.

The adopted Local Plan allocation CRE6 Sports fields (which is larger than the application site) proposes housing and other infrastructure but it does specify that b) Relocation of the rugby club and associated pitches to a suitable alternative site before development is commenced. In para 3.173 the local plan states that The site comprises the club house, main pitch and a number of training pitches currently used by Crediton Rugby Club. A site for the relocation of the club has been identified within the Pedlerspool site (Policy CRE5), freeing up this site for residential development. However, should the Pedlerspool site not come forward, another suitable alternative site for the rugby club and training pitches will need to be found before this allocation can be developed. The replacement sports facilities should result in no net loss in provision. This proposal as it stands will see the loss of a playing pitch without replacement.

Consideration and weight should also be given to the Council's own Local Plan policies that seek to protect open space, sport and recreation. And the wording of Local Plan allocation CRE6 Sports fields.

The RFU advise Sport England and acknowledge the loss of the rugby union pitch within this proposal. The site is used by Crediton RFC and has been for a number of years, under a short term user agreement with the site landlords. It plays a vital part of the clubs operations, servicing both the junior and senior sections of the club. The overall site hosts three rugby pitches, all of which are used by the club, the RFU appreciate only one pitch is subject to this proposal.

The Club have aspirations and long term plans to relocate their club out of the town on a new site, to enable all activity to be on site, with a larger multi-purpose built facility which is fit for purpose. This would safeguard and future proof the club to be in a stronger position in the future. The RFU recognise, they have outgrown their current facilities.

The RFU are aware of the mitigation offered by the applicant, and recognise the monetary value would enable enhanced pitch provision on the new proposed site. The complexities over governance currently doesn't allow for a turn-key solution to the loss of the pitch. At present the

club are not concerned with the loss of one natural turf pitch, and feel from an operational perspective, they can manage their pitch allocations effectively.

At this time, the RFU does not wish to object to the current application, given the mitigation available. [*Sport England do not share this view]. The RFU would like to be consulted with, and would like input on the technical design and drainage solutions of the new pitches when they are planned.

The Football Foundation (FF) on behalf of The FA and Devon FA advise that in the past, there was a full size football pitch on the site, used by Sunday league teams at the time - The Mitre FC / Kings Arms FC. Crediton Youth FC have historically used the site for an annual tournament. There is a strategic need for additional grass football pitches in the area and a priority to support the enhancement of the pitches home to Crediton Youth FC.

The ECB in relation to cricket advise that the site has been in the past used for cricket. No play in recent time. If there was some S106 from this development then Sandford CC's second pitch would be a project in that area.

Conclusion

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 97 of the NPPF. The application raises some significant issues regarding playing field land loss and no proposed replacement in line with Policy and the adopted Local Plan.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's objection then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the Planning Casework Unit.

In objecting to this statutory planning application, Sport England would make reference to the High Court decision to quash a planning consent for development adjoining the East Meon cricket ground in East Hampshire District (High Court Ref: Case No: CO/1894/2014). In summing up the case, the Inspector said: "In my judgment, the officers and the Planning Committee failed to have proper regard to the representations of Sport England in its capacity as statutory consultee". Sport England would therefore request that the local planning authority give due weight to the concerns raised by Sport England with regard to this proposal, given our status as a statutory consultee.

Planning Casework Unit, Department for Levelling Up, Housing & Communities - 13.05.2022

I refer to your e-mail of 20 April 2022 referring to the Secretary of State for Levelling Up, Housing and Communities ("The Secretary of State") an application for planning permission for the above development. The Secretary of State has carefully considered the case against call-in policy, as set out in the Written Ministerial Statement by Nick Boles on 26 October 2012. The policy makes it clear that the power to call in a case will only be used very selectively.

The Government is committed to give more power to councils and communities to make their own decisions on planning issues and believes planning decisions should be made at the local level wherever possible. In deciding whether to call in this application, the Secretary of State has considered his policy on calling in planning applications. This policy gives examples of the types of issues which may lead him to conclude, in his opinion that the application should be called in. The Secretary of State has decided not to call in this application. He is content that it should be determined by the local planning authority.

In considering whether to exercise the discretion to call in this application, the Secretary of State has not considered the matter of whether this application is EIA Development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The local planning authority responsible for determining this application remains the relevant authority responsible for considering whether these Regulations apply to this proposed development and, if so, for ensuring that the requirements of the Regulations are complied with.

Natural England - 03.08.2021

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 02 March 2021 (Our ref: 343888). The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Earlier comments were as follows:

Natural England – 02.03.2021

Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Rights of Way Officer – West (D.C.C.) - 22.07.2021

The proposal as submitted does not directly affect Public Footpath No.24, Crediton, which appears to be outside of the site boundary. However, should planning permission be granted the applicant must ensure the public path is kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure

cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Earlier comments were as follows:

Rights of Way Officer – West (D.C.C.) – 02.03.2021

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 98).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring. It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

Response

The proposal as submitted does not directly affect Public Footpath No.24, Crediton, which appears to outside of the site boundary. However, should planning permission be granted the applicant must ensure the public path is kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

Historic Environment Team (D.C.C.) - 21.07.2021

The Historic Environment Team have no additional comments to make on this planning application to those already made, namely:

An archaeological geophysical survey undertaken of the site in the late 20th century showed the presence of anomalies that were indicative of archaeological features, such as ditches and pits within the area affected by the proposed development. The significance of these heritage assets is not judged to be of such significance to warrant preservation in situ or additional information to be supported in support of this planning application. However, the Historic Environment Team would advise that any impact from development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

Reason:

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works. I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines. I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Earlier comments were as follows:

Historic Environment Team – 24.02.2021

An archaeological geophysical survey undertaken of the site in the late 20th century showed the presence of anomalies that were indicative of archaeological features, such as ditches and pits within the area affected by the proposed development. The significance of these heritage assets is not judged to be of such significance to warrant preservation in situ or additional information to be

supported in support of this planning application. However, the Historic Environment Team would advise that any impact from development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

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

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

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

Devon, Cornwall & Dorset Police - 20.07.2021

Thank you for this application, the revised drawings are noted, Police have no further comments in addition to those of February 2021.

Earlier comments were as follows:

Devon, Cornwall & Dorset Police – 18.02.2021

Thank you for this application, Police have no objections in principle to the proposal. The boundary treatments are noted. Blank elevations often present opportunities for crimes such as graffiti, burglary and arson, therefore consideration should also be given to the use of robust defensive planting along the east elevation.

It should be ensured that the glazed store frontage is protected against possible vehicle attack, either accidental or premeditated, this could be achieved through appropriately located bollards/planters etc. External doors and windows are recommended to be independently security tested and certificated products to an appropriate nationally recognised standard such as PAS24:2016 or similar.

I am assuming the car park will be appropriately lit at night when the store is open?
I recommend consideration is given to the inclusion of a lockable barrier or gates at the car park entrance. These if required could be secured when the store is closed and prevent potential misuse of the car park perhaps particularly by groups in their cars and thereby reduce likely incidents of crime, disorder and anti-social behaviour. This is not altogether uncommon problem for car parks elsewhere in Devon and can arise at any time. 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 CCTV should also cover the car park, goods delivery area and the windowless north and east elevations. 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.

REPRESENTATIONS

This planning application has been advertised by means of a site notice, neighbour notification letters and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement (October 2016). Given the Policy Allocation within the Local Plan for the site, this application was considered to be a departure and advertised as such.

319 letters of representation were received, 15 were of objection, 300 in support and 5 being of general comment.

The grounds for objection are summarised as follows:

- The location is wrong and will introduce a lot of traffic onto an unsuitable road. This area already gets congested with queuing traffic at times.
- When the housing at Pedlars Pool is completed the traffic using this road will increase. Commercial Road needs to be wider to accommodate the traffic.
- It will cause greater peril for pedestrians and cyclists using or crossing Commercial Road, not to mention Exhibition Road, Mill Street and Blagdon Terrace.

- This is the wrong location for a large retail outlet and there are better locations within Crediton.
- There are many people that come from the north western side of Exeter to shop at Crediton's Tesco store, it is possible some of these may divert to the new store causing even more traffic.
- It will move away from Crediton's nuclear town model with spreading and mixing of commercial areas with housing.
- At present most of Crediton is quite well delineated with well defined retail, dwelling, industrial and commercial areas. Where these areas meet there is a generally a separation of some sort, either a road or a green space.
- It will no doubt have an adverse impact on other local retailers, and importantly the town centre.
- It will result in removal of hedgerow and trees along Exhibition Road, and similarly in the entrance to the Leisure Centre.
- 'The Rec' been used for an extraordinary number of purposes and activities, too numerous to list. Even when there is no organised activities there are plenty of people of all ages, exercising, picnicking and generally resorting there to be in the open air.
- The Trustees of the these playing fields have a duty to get as much out of them as they can for the school but if they sell off the 'family heirlooms' there will be nothing left for future generations.
- In these times when exercise and fresh air is important, not just due to Covid-19, and obesity is a growing problem, it would seem foolish to put 'The Rec' out of use.
- This is a large, flat, level piece of ground with good access and amenities close by. It is a level walk from the town centre. It forms a natural sport oriented site bordered as it is by the Lords Meadow Leisure Centre.
- Concerns with loss of hedgerows which are important to wildlife as a habitat and as travel corridor. A variety of birds, reptiles and mammals have been observed.
- Developers can build houses and shops on any sort of terrain but recreational playing fields of this sort need to be flat.
- The access would be in a dangerous position as multiple businesses access this point of the road, it is the main thoroughfare for several heavy haulage companies and the leisure centre also attracts high volumes of traffic.
- The addition of store delivery vehicles and a high volume of shoppers to the already busy road along with vehicles trying to access Commercial Road from the various businesses and side roads will only exacerbate the poor safety situation.
- There is a dangerous dog-leg in this road near the turning to Hawkins Way which increases the difficulties of traffic using this road,
- Pedestrian traffic will increase significantly and there is no safe crossing point on Commercial Road.
- The area adjacent to Tesco and Mole Avon would appear to be a far more suitable site.
- The mini-roundabout at the junction of Commercial Road and Exhibition Road is not adequate to cope with additional traffic wanting to access or egress the retail store carpark
- The retail store will be position close to residential properties resulting in increased noise pollution from customers, vehicles, and deliveries to the store and using the carpark and increased light pollution from the store lighting, carpark lighting and night-time vehicle access.
- Whilst there are already lampposts on Exhibition Road, there is a lot of difference between a couple of lampposts and a car park full of lights.
- The current roads are quiet so noise in the car park will be noticeable.
- We do not need another supermarket.
- The A377 was rerouted a few years ago to improve the on air quality in the area of Crediton, but the improvements stopped short of the industrial area, therefore the road is not suitable for bi-directional traffic.

- Crediton is a rural town in Devonshire but is deplorably short of recreational space and this is disappearing.
- There will also be the problem of night time deliveries and the noise that will cause, we are already subject to overnight clanging from the galvanising works.
- Although the store will probably close at 10pm there will still be considerable disruption from customers loading their shopping, starting their cars and slamming the doors.
- How can an HGV driver safely negotiate a crowded car park with shopper's trolleys moving around and unpredictable children running around?
- This applicant would unfortunately be more likely to impact negatively on the much more appropriate and longer lived Morrisons store as well as the high street, resulting in a loss of jobs
- This new development is unnecessary due to the very recent construction of a store in Tiverton, it will not add to the community positively as its ethos is not one of customer service or community engagement.
- There are already 2 supermarkets in Crediton - Morrison's and Tesco. These stores already serve the community well and with the additional high street stores there is a depth and variety of shops.
- Living in Newton St Cyres we will have additional deliveries of trucks along the A377 as well as shoppers, adding to congestion and pollution.
- What Crediton needs is sustainable housing and space for provision of a new school.
- Housing need in the area is greater than that for another supermarket.
- This asset in Crediton currently claimed by the School needs to be treated as a community asset and one not to be wasted on retail development.
- There will not be another opportunity to have the secondary school on one site if this is not registered as a primary concern. Or should housing need come first then this is perfect land, offering a level site and easy access to all, without the need as in some recent town developments to be accessed only by steps or steep slopes.
- Lidl's in particular, sells very little if any local produce or indeed British produce.
- Ownership of the land is in question.
- This site needs to be maintained for the wellbeing of the residents. Natural spaces are known to improve mental health.
- The supermarket would take business away from village shops as residents are likely to travel to this new store if close.
- How do you propose to manage parking from the rugby club in the interim of acquiring the land and them affording to relocate to Peddlerspool.
- What do you propose to do with the land behind the store? The land that will back onto the allotments. Do you have plans afoot to also purchase the allotments?
- How will you police and secure the car park overnight to reduce the risk of anti social behaviour happening in the car park?
- The lack of up-to-date and robust information provided by the applicant on a critical starting point, i.e., the health of the town centre together with the lack of availability of important documents on the issue of retail impact from the Council's website
- The applicant's failure to apply flexibility to their sequential assessment and the need for a more detailed review of all opportunities through applying real world scrutiny
- Harmful conflicts with the allocation of the site in the Local Plan and potential adverse implications of breaches of policy CRE6 for the future of Crediton Rugby Club;
- The loss of allocated housing land which is important in meeting future housing delivery;
- The loss of protected sports fields and the applicant's failure to mitigate against a net loss in provision
- The lack of provision for improvements to existing pedestrian access arrangements e.g., by way of a new controlled crossing on Commercial Road

- The applicant has not demonstrated that a net gain in biodiversity on the site would be unachievable which is a breach of Local Plan policy.
- The value which would be achieved through the sale of the land owned by CRFC would be higher than the land valuation calculated in the report produced as more housing could be provided on site.
- The value of the Creedy Bridge site is higher than the valuations outlined to date which are closer to an agricultural value rather than market value.
- The cost of the relocation of the rugby club in terms of facilities required could be less than outlined.

The grounds of support are as follows:

- Crediton has two of the bigger supermarkets but the town should now have at least one of the budget outlets to give greater choice at the lower end of the market.
- The lack of superstores denies the town much needed income from incoming villagers wanting to get their food shopping done.
- There are certain items sold by Lidl which are not stocked by existing supermarkets.
- The proposed supermarket is ideally located next to existing employment land.
- It will provide much needed jobs in Crediton.
- It's location will reduce the traffic on the A377 and through Exeter
- It will be within walking/cycling distance for residents of Crediton
- Crediton is one of the few towns which does not have a store of this type and building one locally would save unnecessary journeys to Exeter, Tiverton or Okehampton.
- This will lead to some much overdue competition for the 2 supermarkets in town. Competition between businesses can only be good for the residents of Crediton and surrounding areas, as it normally leads to lower prices, a better range of goods or improved service.
- As Crediton continues to grow, it needs more employment within the town to reduce the need for residents to commute to Exeter or similar in order to find work.
- These companies will work with the Council and the Council in turn with nearby residents to ensure traffic flow, operating hours and delivery hours and lighting will all be taken into consideration.
- The landscaping and screening must be sympathetic with the current area.
- Footfall is important to the development and survival of the businesses not only on the Industrial Estate but Crediton Town.
- Lidl goods are keenly priced and will help people on low incomes in the town and no doubt the town bus will visit once a week. Tesco and the Co-op are both in the high Street for convenience but are expensive.
- An additional food store with the range of products typical to those found in Lidl stores would be welcome in Crediton
- The proposal would offer the growing population more choice locally for supermarket shopping. If people wish to shop at Lidl the nearest stores are in Tiverton, Exeter or Okehampton. The proposal would reduce shopper's carbon footprint by allowing the population of Crediton and surrounding villages to shop nearby instead of travelling further.
- It would providing the Rugby Club with funding for relocation.
- This would be a welcome addition to Crediton and provide a much needed service as more homes are built here.
- The addition of a pedestrian crossing would be essential to promote access on foot from town and improve safety.
- As a company Lidl supports British producers which is more important than ever since leaving the EU and the need to reduce food miles.

- I realise that there are concerns about the road network around the site but being that I work close by I believe there can be solutions found. The fact that the vaccination centre has run successfully and coped well with the increased traffic proves that it can work.
- Planners need to think about the supermarket as a place for shoppers outside of Crediton and not just for the town itself, such as from the villages outside of Crediton.
- I have read both supporters and objection letters, it seems to me the objectors are clutching at straws with comments about delivery trucks and pedestrians being in the same place, how do they think Morrisons deliver?
- It will bring people to the town and help support the town centre shops.
- As a business owner in Crediton it's good to see developments like this coming to town especially when for many of us travelling to the nearest store of this company is on the other side of Exeter.
- Some concerns I've seen/heard relate to lorry traffic, as it's located on the industrial estate any lorry traffic coming from Exeter can use the Link road (that's what it was built for). There is plenty of parking with overflow parking nearby. Plus the company are willing to invest in the town.
- The big positive for me is they are fitting solar panels for the store and it will also include electric car charge points.
- Lidl have numerous green initiatives and are committing to financial support toward the town.

General comments are as follows:

- A partial solution to traffic concerns could be for traffic to be forced into a left turn when leaving the Lidl car park and use the Tesco roundabout for onward travel direction.
- Hopefully the delivery lorries have been catered for and the increased noise of night time deliveries because the noise coming from the Trading Estate has escalated in recent years.
- It will be important to ensure the highway provisions are improved in the immediate locality, along with ensuring antisocial behaviour and light pollution are kept to a minimum for nearby residents.
- A better plan would be to come off of Exhibition Road, although I would not like the hedgerow destruction.
- The site could be leased as part of the Leisure Centre and pitches/area hired out for use.
- Support if consideration is given to the mental wellbeing of the staff, in that there are enough windows to allow natural light in, and that there are green spaces retained in a staff area and within the car park.
- I would like to see trees or hedging (better for wildlife and CO2 levels) included around the perimeter and within the carpark, parking for bicycles and electric car charging point.
- Concern to the goods delivery proposals as large articulated lorries will be manoeuvring and reversing in a space shared with customers' cars and pedestrians.
- I ask that LPA reviews screening & landscaping to ensure suitable & visually sympathetic screening along the A3072 boundary, including bringing trees and higher level planting further around the corner & back along the A3072 in the Tiverton direction.
- This development has potential to draw more shopper traffic along A3072 to the roundabout which is already in poor state.
- Current proposals show large expanses of unrestricted tarmac surfacing in the carpark, LPA has the ability to seek mitigation measures (e.g Sleeping Policeman) are placed to make it unattractive to "Joy-Riders".
- Appropriateness of flagpoles along A3072 adjacent to residential properties is questioned.
- Edwin Tucker & Sons Ltd opposite the site currently hold a neutral position to this application on the whole. However, concerns are raised to the proposed access and in opposite one of their entrances which will lead to conflict with road users and safe maneuvering into the site.

- The 'Assumed Boundary Line' enters into our property which, according our land registry records, is incorrect and we would like this to be made correct in plans prior to any approval.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application seeks permission for the erection of Lidl food store (Class A1) with associated parking, landscaping and access arrangements on the playing fields off Exhibition Road, CREDITON. The site is within the settlement limits outside of any landscape designations but it is on a site allocated for housing (CRE6) and is not located within the defined CREDITON Town Centre, the boundary of which is located to the west. In terms of walking distance, the site is just less than 600 metres from the town centre boundary with the site on the current playing fields being surrounded by other commercial and residential uses.

The material considerations in assessing this application are:

- 1. Policy**
- 2. Provision of retail units on site and impact on the Town Centre**
- 3. Implication of Policy Allocation CRE6**
- 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

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

It is considered that this development should be assessed in terms of policies S1 (Sustainable development priorities), S2 (Amount and distribution of development), S6 (Employment), S7 (Town centres), S8 (Infrastructure), S9 (Environment), S12 (CREDITON), CRE11 (CREDITON Infrastructure) of the Mid Devon Local Plan 2013-2033.

Policy S1 stresses the need for development to meet sustainability objectives, Policy S6 outlines employment space requirements in Mid Devon and Policy S7 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. Policy S8 aims to reduce the need to travel by car and increase public transport. Policy S9 seeks development which will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets. It also outlines the need ensure that development does not increase flooding to properties elsewhere, S2 states that development should be concentrated at CREDITON where of an appropriate scale, and Policy S12 further deals with development within the settlement of CREDITON.

With regard to the Development Management Policies, Policy DM1 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 DM2 support renewable energy such as the solar panels proposed on the retail unit. Policy DM3 relates to transport and air quality considerations for any development and Policy DM4 outlines the assessment required on pollution. Policy DM5 states the required parking levels for a proposal, Policy DM14 covers town centre developments and Policy DM15 on development outside of town centres. Policy DM25 outlines the assessment required for development which affects heritage assets and Policy DM26 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 DM15 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 2021 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 91) retains the town centre first policy, the sequential approach to site selection and impact tests. The NPPF (paragraph 90) 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 90 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 proposed development (2,022 sq.m GIA) is under the NPPF threshold. However, Policies S7 and DM15 (Development Outside Town Centres) set a lower local impact threshold of 500 sq.m gross for out-of-centre retail proposals in Crediton. Policy S7 and DM15 post-dates the introduction of the NPPF and is up-to-date. For clarity, it should be noted that Policy S7 and DM15 pre-date the latest July 2021 edition of the NPPF but accord with its guidance on retail developments, which date from the earlier edition of the NPPF that pre-dates the local plan.

The planning application has therefore been accompanied by a Planning and Retail Statement prepared for the applicants by RPS and the Council have had this assessed by an independent retail expert. Lichfields was commissioned by Mid Devon District Council to undertake an independent assessment of the retail planning issues raised by this planning application, i.e. the

retail impact and sequential tests, as set out in the NPPF. A critique report was produced by Lichfields in April 2021 which raised a number of points/matters which needed to be answered/addressed. RPS addressed outstanding issues relating to the planning application in a letter dated 13th July and their letter included reworked retail impact tables. A further report was then provided by Lichfields which updated Lichfields' appraisal of RPS's retail assessment taking into account the additional information provided in the 13th July 2021 letter.

In terms of the impact on existing retail, Crediton centre had been judged in the Greater Exeter Retail Study 2018 as being healthy, with an above average number of convenience and comparison outlets and a vacancy rate below the national average. As part of the commission by Lichfields to advise on the issues of impact and the sequential test, they were also able to undertake a health check in late August, the lockdown having ended on 19th July. They identified that while there has been a loss of 9 retail outlets in the centre since 2016, it has not resulted in an increase in the number of vacant units as the loss has been off-site by an increase in the number of non-retail service uses. In fact, the current composition of the centre shows that the proportion of convenience and comparison outlets are around the national average, and the vacancy rate is below (4.6% compared to the UK average of 14.6%) – there were currently only 2 vacant shop units in the primary shopping frontages at the time of the survey.

Lichfields concluded that the town centre is “...a relatively healthy and attractive centre with a low shop vacancy rate. It has a good mix of shops and services including a strong evening economy”. Therefore the independent consultant was satisfied that Crediton Town Centre is healthy and well able to withstand the introduction of the Lidl store. In respect of the impact assessment, following the initial views of the Independent consultant to the Planning and Retail Statement, RPS re-worked impact tables which were submitted in July, which utilised more up to date data from the Greater Exeter Retail Study Part 2 (December 2019). Lichfields considered the impact assessment from RPS and undertook their own sensitivity analysis and concluded that the combined (direct and indirect) impact on the town centre will be -5% in 2024, which is not significantly adverse. They concluded that the Tesco Express will continue to trade above their company average; impact on Tesco's out-of-town superstore is of course not a material consideration.

On the matter of the sequential test assessment the Planning & Retail Statement identified that the minimum site size Lidl generally require is 0.7-0.8ha and that their standard format store is now circa 2,200sq m gross with 120 parking spaces. The proposed development in Crediton is 2,022sq m on a 0.8ha site with only 114 parking spaces, so it is below their standard size in terms of floorspace and parking numbers. Objections were received on the sequential test carried out by RPS and that Lidl should have been more flexible and consider sites for a smaller store, citing examples of where Lidl have done this in Watton, Newport (in Wales) and Shieldfield.

The applicant's agent has responded noting that the proposed development in Watton is on a 0.81ha site; the new store in Newport is 0.97ha and Shieldfield is 0.7ha. While the latter is a smaller site than Crediton, the development is a slightly compromised one with a store of 1,970sq m and only 85 parking spaces. The search by RPS failed to identify any sites in Crediton within or on the edge of the town centre that could come close to accommodating a similar sized development and Lichfields have concluded that based on the information provided there are no potential opportunities within Crediton town centre that are large enough to accommodate a discount food store. Lichfields, have accepted that the sequential test has been addressed and satisfied.

The findings of Lichfield are accepted and therefore in light of the above, it has been concluded that there are no sequentially preferable sites within Crediton Town Centre or edge of centre or 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 DM15 and S7 of the development plan.

3. Implications of Policy Allocation CRE6

The application site is located within the defined settlement boundary of Crediton and is allocated under Policy CRE6 (along with the adjoining sports pitches to the north and CRFC's main pitch and clubhouse on the west side of Exhibition Road) for residential development, subject to the following criteria:

- a) 120 dwellings with 28% affordable housing;
- b) Relocation of the rugby club and associated pitches to a suitable alternative site before development is commenced;
- c) Provision of a Transport Assessment to assess the need for a right turn lane into the northern part of the site;
- d) Improved access to the town centre for pedestrians and cyclists; and
- e) Archaeological investigation and appropriate mitigation.

3.4 The supporting text to the policy outlines that *“the site comprises the club house, main pitch and a number of training pitches currently used by Crediton Rugby Club. A site for the relocation of the club has been identified within the Pedlerspool site (Policy CRE5), freeing up this site for residential development. However, should the Pedlerspool site not come forward, another suitable alternative site for the rugby club and training pitches will need to be found before this allocation can be developed. The replacement sports facilities should result in no net loss in provision”* (paragraph 3.173 refers).

As the policy does not include the provision of a foodstore, it has been advertised as a departure to the Local Plan, even though it is located within the settlement limits of the Town. In terms of the policy criteria and justification text, outline planning permission 17/00348/MOUT (for the residential development of up to 257 dwellings and up to 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations) has been approved on land at Creedy Bridge and the Rugby Club is safeguarded for a period of 10 years on commencement of residential development on site.

Concerns have been raised by objectors to a conflict with Policy CRE6 and potential impact on Crediton Rugby Club through the loss of a playing pitch with Sport England identifying their stance to the requirement for replacement facilities to be provided in advance of a development. Policy CRE6 allocates the sports pitches north and south of Exhibition Road for residential development to provide 120 new dwellings, with a requirement for the relocation of the rugby club and associated pitches to a suitable new site before development is commenced.

As noted above, a suitable site for this relocation has already been identified at Creedy Bridge which is safeguarded land. Agronomy surveys have also been undertaken on the site at Creedy Bridge which demonstrate that appropriate playing facilities can be provided with Sport England confirming that they would withdraw their objection on viewing plans for the site. In terms of impact on the rugby club, they are on record as supporting Lidl's planning application, on the basis that they can manage with the loss of the one pitch and they have a pressing need to relocate given all the pitches they use on the south side of Exhibition Road (including the Lidl site) are on a short lease from the Queen Elizabeth School Trustees, which could be terminated on very short notice. They see a relocation to Creedy Bridge as the best way to secure their future but need a

significant financial contribution to allow them to kickstart the relocation process. A financial contribution of up to £400k is being offered by Lidl to enable the Rugby Club to proceed with the purchase of the land at Creedy Bridge, after which further funds can be released through the future sale of their existing freehold land to complete the pitches and provide a new clubhouse and change room facilities. Without Lidl's assistance there is currently little prospect of the Club being able to relocate.

In terms of Sport England's policy, they have advised that the proposed development will result in the loss of one pitch and that the requirement is therefore to provide one replacement pitch elsewhere, not the replacement of all the Club's pitches only the one Lidl will take. It is clear that at least one new pitch can be provided at Creedy Bridge on land outside the flood zone and the contribution would assist in the purchase of the site allowing the relocation and provision of an improvement community facility. In terms of Policy CRE6, it would also unlock the playing fields site for housing. Therefore it is considered that a pragmatic approach is required to allow development of the foodstore ahead of the replacement pitch being provided. In light of the objection from Sport England whereby they would wish to see replacement playing pitches having been provided in advance of any loss of an existing playing pitch, given that the recommendation is to approve, this application has been referred to the Secretary of State in line with Paragraph 10 of the Town and Country Planning (Consultation) (England) Direction 2009. Confirmation has now been received from the Secretary of State that they do not wish to call in this application for determination.

In respect to concerns raised to the loss of playing pitches, it should be noted that the site in its entirety is allocated for housing so would in time be developed upon. In terms of concerns raised to the loss of housing land through the retail unit proposed, it should be noted that the allocation is seeking 120 dwellings, which equates to a density of 22 dwellings per hectare, which is much lower than what such a site could potentially accommodate and compared with surrounding residential estates. The Lidl site is 0.8ha so that would leave 4.7ha of the allocation remaining, and a development of only 26 dwellings per hectare is considered to be sufficient to deliver at least 120 homes, even without the plot taken for this development. Therefore taking into consideration all of the policies within the Local Plan, a case can be made to support this development in the knowledge that the remaining land could provide the housing allocation numbers and also assist in the relocation of the rugby club which is a requirement prior to the housing development.

4. Transport, access and parking issues

Policy DM1 of the Mid Devon Local Plan states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling; whereas Policy DM5 states that sufficient vehicle parking must be provided. In addition to these policies, any proposal must not adversely affect the safe functioning of the highway in line with policies S8 (Infrastructure) and DM3 (Transport and air quality) of the Mid Devon Local Plan 2013-2033.

With regard to parking standards outlined within Policy DM5, for a retail unit, 1 space per 14sqm of gross floor area is required so based on a unit of 2022sqm, this would amount to a requirement of 144 car parking spaces. As can be seen on the plans provided, there would be a total of 114 car parking spaces (2 electric vehicle charging points) and 12 cycle parking spaces would be provided in support of the store.

This represents a shortfall; although if the parking was based on the net sales area of 1,256sqm, only 90 spaces would be required. Given the location of the site within a built up area, close to commercial premises, it is considered that the level of on site parking could be supported. As noted by the Local Highway Authority, the Applicant has provided a response to the parking

spaces provided which show the parking numbers provided for this size of the store would not cause a severe impact on the highway, although the number are not in line with the Local Planning Authority Policy DM5.

£100k is also to be secured through a S106 agreement in order to provide a zebra crossing. This will provide an improvement in pedestrian accessibility to the site. Furthermore, the site is approximately 600m from the town centre, so is clearly in walking distance to public transport and parking facilities.

In terms of justification for the pedestrian crossing facility and highway works, when considering development proposals, the NPPF outlines at para. 110 that:

'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

At Para 112 it is stated:

'Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

Therefore the access and parking arrangements are considered acceptable for this development with justification for providing the pedestrian crossing facility and it is noted that bus stops are located within walking distance, as well as other services within the Town Centre.

5. Flooding, drainage and site contamination

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

Policy S9 requires provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding

development to locations of lowest flood risk and avoiding an increase in flood risk elsewhere. Policy DM1 requires appropriate drainage including sustainable drainage systems (SUDS), arrangements for future maintenance, and connection of foul drainage to a mains sewer where available.

The Drainage Statement confirms that the proposed development will introduce 6,825sqm of impermeable drainage area in the form of buildings and access which will result in an increase in surface water runoff. In order to ensure the increase in surface water runoff will not increase flood risk elsewhere, flow control will be used, and attenuation provided on site to accommodate storm events up to and including the 1 in 100 year plus 40% climate change event. The proposed surface water drainage scheme will therefore ensure no increase in runoff over the lifetime of the development. Foul water generated by the Site should be discharged to the 225 mm public combined water sewer which runs across the Site via a gravity fed connection.

The application site is in Flood Zone 1 but the applicant has submitted a Flood Risk Assessment in order to provide the best available information for all sources of flooding for this site, with the conclusion being that this site is at the "lowest risk of flooding" from any source. The aim of the FRA is to outline the potential for the site to be impacted by flooding, the potential impacts of the development on flooding both onsite and in the vicinity, and the proposed measures which can be incorporated into the development to mitigate the identified risks. A sequential test has been considered given the finding of a small area of potential surface water flooding along the eastern boundary of the site.

The sequential Test ensures the development is sited on land that has the lowest risk of flooding within the local area, and it is concluded similar to the sequential test undertaken as part of the Retail Impact Assessment that there are no other available sites within Crediton having a lower risk of flooding with no other sites within policy allocations to meet a development such as this. Any vacant industrial/commercial sites have been ruled as being either too small or being further out of town. The sequential test is considered to have been passed.

On the matter of land contamination, a report has been submitted which identifies the potential for some land contamination given historic uses in and around the site. As such a condition is recommended by the Public Health Department which has been included within the recommendation. Subject to conditions the development is considered to comply with Policies DM3, DM4 and S9 of the Mid Devon Local Plan 2013-203.

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

The application site is located in an area containing residential, commercial, retail, leisure and recreational site. The proposed development would create a new foodstore with 1,256sqm sales area (2,022m² gross internal floor area), including a customer car park and recessed loading bay to facilitate the delivery of goods to the store. The proposed store has been positioned to the north east of the site. The western and southern areas of the site are to be customer parking with vehicle and pedestrian access.

The site is not located within a designated landscape but the development would be viewed from a number of public vantage points. Policy DM1 (High quality design) outlines:

Designs of new development must be of high quality, based upon and demonstrating the following principles:

a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;

- b) Efficient and effective use of the site, having regard to criterion (a);*
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*
- d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;*
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:*
 - i) Architecture*
 - ii) Siting, layout, scale and massing*
 - iii) Orientation and fenestration*
 - iv) Materials, landscaping and green infrastructure*
- f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*
- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

The material palette affords the design coherency of Lidl foodstores. The west elevation facing Exhibition Road will implement 4m glazing to provide natural light and the shop front will wrap around a fraction of the south side elevation to comprise the customer entrance lobby. The elevations would consist of high level grey cladding, with red bricks and some feature areas will consist of blue/grey brick piers and plinth beneath. Roof cladding would be standing seam in silver and environmental and sustainable measures have been considered with the use of Trina TSM 300w (Solar PV) to be adopted on a simple framework so that panels are fixed as close and flat to the roof as possible.

The access for the site of Lidl is directly opposite other commercial premises and so there is a link to a commercial area; notwithstanding residential properties on the opposite side of Exhibition Road. Given the siting adjacent to Lords Meadow Leisure Centre, other businesses opposite that are off Commercial Road and residential properties off Exhibition Road, it is considered that the development would be viewed acceptably in this built up development context. Landscaping of the site is proposed as well as biodiversity enhancements through additional tree planting and bat and bird boxes. As such 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 S9, DM1 and DM3 of the Mid Devon Local Plan 2013-2033.

7. Living conditions of the occupiers of nearby residential properties

Policy DM1 states that development should be well integrated with surrounding buildings, streets and landscapes, and not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties. Policy DM4 requires applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by assessments of the impacts and provide appropriate mitigation.

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 introduction of a retail unit 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 have viewed reports and plans for noise and lighting associated with the development and have confirmed that they agree to the recommendations. As a result conditions are recommended requiring the external lighting to be in accordance with the information submitted and the Noise Assessment carried out.

The opening hours for Lidl stores are 08:00-22:00 Monday to Saturday and Bank Holidays, and either 10:00-16:00 or 11:00-17:00 on Sundays. A condition has been recommended to hours of opening and delivery. With regard to servicing, it has been outlined that the applicant is mindful of minimising disturbance to any neighbouring landowners with each Lidl store typically having only 1-2 deliveries a day for all its products, including ambient, fresh, frozen and chilled goods. Total unloading time is generally only around 45 minutes and for Crediton the deliveries will come from Lidl's regional distribution centre in Exeter.

No other concerns have been raised from the Public Health Department in terms of air pollution with a financial contribution sought to provide air quality mitigation within the AQMP area given the increase in traffic as a result of the development. Conditions required for further surveys to address any land contamination are to be conditioned and the proposal on the basis of inclusion of conditions is considered to comply with policy DM1 of the Mid Devon Local Plan 2013-2033.

8. Ecology

As part of this application, a preliminary ecological appraisal has been submitted whereby the ecologist identified that the site comprises largely of short-mown, species-poor semi-improved neutral grassland playing field, with ruderal vegetation, scattered scrub and scattered trees around the site boundaries. There are no sites (statutory or non-statutory) which are ecologically connected to the application site, and therefore, there are no potential constraints of the development in this respect. The habitats present on site are generally considered widespread and common and are of low ecological value. The plant species and habitats that are present are common and widespread.

The ecologist noted that there is suitable habitat on site to support breeding birds, therefore, it has been recommended that any hedgerow or tree clearance be undertaken outside of the bird nesting season (March – August inclusive), or, if this cannot occur, that the vegetation first be checked for active birds' nests by a suitably qualified ecologist. If any birds' nests are found, they should be left with a 5 m buffer until the chicks have fledged (usually six weeks). The site offers limited suitable habitat for reptiles, and so recommendations to sensitively clear this habitat have been made, to ensure any reptiles, if present, are not harmed. Several trees along the eastern site boundary were noted to be of low bat roosting suitability.

Objections were received on the grounds of loss of hedgerow and not achieving biodiversity improvements. Recommendations to enhance the site for biodiversity have been made, in line with local and national policy which would see the implementation of two bat boxes and bird boxes on site and as outlined on the landscape plan and commented upon by the Council's Arboricultural Officer, the landscape design has been reviewed and amended to include the planting of 13 trees that are a mix of Field maple and English oak. The proposed new tree planting is viewed as

acceptable and will contribute to improving the landscape in the immediate area. In addition to the tree planting there is complimentary shrub planting along the western aspect of the site.

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 policies S1 and DM1 of the Mid Devon Local Plan 2013-2033

9. Impact on Heritage Assets

The application site is not located within the Conservation Area, being sited approximately 90metres away which is where the nearest listed building of Blagdon House is located. 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 DM25 - Development affecting heritage assets states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;
- d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and
- e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).

Given the separation distances involved, viewpoints to heritage assets and the relationship to the playing fields site and commercial development to the south of the site, it is considered that the retail foodstore building would be 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 retail offer considered to outweigh any harm. The development is therefore considered to be in accordance with DM25 and the guidance within the NPPF.

10. S106 Obligations and local finance considerations

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 secure the following planning obligations:

- A financial contribution of £87,289 to be allocated and spent towards measures necessary to assist with the flow of traffic through the Western Gateway, St Lawrence Green and the High Street in Crediton to address air quality within the Crediton Air Quality Management Area.
- A financial contribution of £400,000 towards the relocation process and provision of improvement playing fields in light of the requirements of Policy CRE6 requiring the relocation

of Crediton Rugby Football Club and a replacement pitch for Crediton Rugby Football Club ('CRFC').

- To secure the funding of £100K for Devon County Council to deliver a Zebra Crossing on Commercial Road which includes realignment of kerbing in Hawkins Way.

Regulation 122(2) of the CIL Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

All of the draft 'heads' of agreement set out in detail within the Recommendation (a) to (c) meet these tests.

Policies S12 (Crediton) and CRE11 (Crediton Infrastructure) outlines the requirements for the provision of an off-site financial contribution towards funding improvements which seek to address air quality within the Crediton Air Quality Management Area. The Supplementary Planning Document (SPD) sets out the relevant contributions levels arising from new retail development as is the case with this application. In accordance with these policies and the relevant guidance in the supporting SPD on the provision and funding of Air Quality mitigation, a financial contribution as outlined above would be required for the new foodstore unit created given the increase in traffic into the AQMP area as a result of the development.

Members should be aware that there is requirement for a financial contribution to result in an improvement to the playing field pitch lost through the development. To this end the S106 agreement will include a mechanism for allowing for at least an equivalent playing pitch on an alternative site. This financial contribution will be available to assist with the relocation of the Rugby Club as well as the provision of the replacement pitch consistent with the requirements of Policy CRE6. It will enable Crediton Rugby Club to purchase a site thereby unlocking the site of the Playing Fields for the required housing development on the remainder of the allocation land. With respect to the contribution figure of £400k, this has been calculated through carefully reasoned assumed figures. This includes a land valuation undertaken for land owned by Crediton Rugby Football Club, the potential land valuation costs for purchasing an alternative site and relocation costs in terms of the necessary facilities to be provided. Counsel Opinion has been received to confirm the contribution figure is appropriate.

The justification for any financial contribution is based on the need to provide a replacement playing pitch to that lost through the development proposed. Crediton Rugby Club only have a short term lease for the sports fields site with the applicant of the proposed retail foodstore having an option on the land. Therefore in light of the requirements of Sport England, the calculation takes into account the costs of providing the replacement playing pitch (in terms of purchasing a site and the costs of providing the pitch etc.).

It is a case where the contribution will be for a planning purpose (providing a replacement pitch whilst in turn assisting the relocation of CRFC under the relevant policies and permissions) which is necessary to make the development acceptable in planning terms and is directly related to the development which on the current playing field. It is fairly and reasonably related to the permitted development (it does relate to the development given the loss of the playing pitch and the relocation of CRFC which is sought under the relevant policies and is necessary to make the relocation work), and it is not considered unreasonable.

The works for the crossing facility and highway works has been advised by the Local Highway Authority. The financial contribution and trigger points would be included within the S106 agreement with the proposal to improve pedestrian safety and connections with the town centre.

It is the opinion of your officers that the above contributions would meet the 3 limbs of the CIL Regulation 122 as above.

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, resulting in employment opportunities and offering 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 drainage and flood risk. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

Whilst the site is allocated for housing under Policy CRE6 of the Mid Devon Local Plan 2013-2033, the proposals would help to unlock future housing development on the playing fields given the requirement for the relocation of the Rugby Club which would be assisted through a financial contribution with outline planning permission secured at Creedy Bridge for the relocation with Agronomy surveys undertaken identifying that playing fields could be provided to the necessary standard to meet the requirements of Sport England. The assessment of the application for a retail foodstore 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. Therefore the recommendation is one of approval subject to the signing of a S106 agreement.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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:

1. A financial contribution of £87,289 to be allocated and spent towards measures necessary to assist with the flow of traffic through the Western Gateway, St Lawrence Green and the High Street in Crediton to address air quality within the Crediton Air Quality Management Area.
2. A financial contribution of £400,000 towards the relocation process and provision of improvement playing fields in light of the requirements of Policy CRE6 requiring the relocation of Crediton Rugby Football Club and a replacement pitch for Crediton Rugby Football Club ('CRFC').

3. To secure the funding of £100K for Devon County Council to deliver a Zebra Crossing on Commercial Road which includes realignment of kerbing in Hawkins Way.

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.

The development shall be carried out strictly in accordance with the approved CMP.

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 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 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 - 4 pm on Sundays and the opening hours shall be restricted to 8am to 10pm Monday to Saturday and 10am to 4pm on Sundays.

6. The proposed development may be on land affected by land contamination resulting from previous or current land use(s) on or adjacent to the development site given the findings of the contaminated land and geotechnical report, prepared by Obsidian Geotechnical dated January 2021 which identifies that the historical use was agricultural before the sports fields, however there was a gas works nearby and on site some made ground has been encountered. As such prior to development commencing, the applicant shall carry out an intrusive investigation and risk assessment aimed at identifying the extent and type of any land contamination present and the measures to be taken to ensure that no significant pollutant linkages will exist on the site. A phased approach to the investigation and risk assessment may be appropriate. A report of the investigation and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

If required, a site remediation statement shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required). Following completion of any required remediation works, a validation report shall be submitted to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Development on the site shall not commence until the land contamination investigation report and any remediation have been approved in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until the validation report has been approved in writing.

7. The development hereby approved shall be carried out in accordance with the mitigation and enhancement recommendations outlined within the Preliminary Ecological Appraisal dated December 2020 and prepared by the RPS Group. Prior to occupation of the retail unit, the bat and bird boxes as shown on the Proposed Ecology Plan, drawing no. AD 125 shall have been installed and shall be 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. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

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 site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.

12. No part of the development hereby approved shall be brought into its intended use until the vehicular access on Commercial Way, as indicated on Drawing Number 104360-SK-001, has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

13. Where installed as part of the development, the light source of the proposed floodlighting units should not be directly visible to drivers of vehicles using the public highway. The designs and recommendations contained within the Signify report dated December 2020 which includes an acceptable scheme designed to minimise lateral and upward light pollution shall be implemented and maintained thereafter.

14. 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.

15. All existing trees identified to be retained on the Proposed Landscape Design & Specification Plan, drawing no. AD_116 Rev G, shall be protected throughout the construction of the development hereby approved with protective barriers to be erected prior to construction works being undertaken on site. Protective tree fencing should be in line with the Tree Protection proposals outlined within the Tree Constraints Report & Arboricultural Assessment where tree protection would be 12 times the diameter of the stem, 1.5 m in height. 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.

16. The net sales area of the food store hereby approved shall be limited to 1256 sq.m and no more than 20% (251sq m) shall be used for the sale of comparison goods, and at no time shall more than 3500 individual lines of goods be sold from the premises.

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

18. 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.

19. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (c) above.

20. The development shall be carried out in accordance with the recommendations outlined in the comprehensive noise report prepared by Acoustic Consult Ltd dated December 2020 noise report and submitted as part of the planning application. The report evaluates the potential impact of

plant noise on the nearest residences and concludes that the likelihood of unacceptable impact is low primarily because the plant is located remote from residences.

21. Full details of the soft and hard landscaping including any boundary treatments will be provided prior to occupation of the development hereby approved. Hard landscaping details will provide full information on product and finish whilst soft landscaping will provide (where appropriate), species name and a detailed plan of how the landscaping will be managed in perpetuity.

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 DM1 of the Mid Devon Local Plan 2013-2033.

4. To protect the amenity of local residents from unacceptable noise and dust during construction works in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.

5. To ensure that the proposed development does not prejudice the amenities of neighbouring properties in line with policy DM1 of the Mid Devon Local Plan 2013-2033.

6. In the interests of building integrity and public safety to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

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 DM1 of Mid Devon Local Plan 2013-2033.

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 DM1 of the Local Plan 2013-2033

9. To ensure, in accordance with Policy DM25 and paragraph 205 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.

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 Policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033.

11. To prevent mud and other debris being carried out on to the public highway

12. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents

13. To ensure that the floodlighting associated with the proposal / proposed illuminated sign does not result in detriment to the safety of drivers using the public highway or impact on the amenity of occupiers of neighboring residential property in line with Policy DM1 of the Mid Devon Local Plan 2013-2033.
14. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
15. In the interest of the visual amenity of the area in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
16. In order to minimise the impact of the proposed development on the vitality and viability of Crediton Town Centre, in accordance with policy DM15.
17. In order to minimise the impact of the proposed development on the vitality and viability of Crediton Town Centre, in accordance with policy DM15.
18. To manage the retail sales element of the development and protect the visual amenities of the site in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033
19. The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.
20. To protect the amenity of occupiers of neighboring residential property in line with Policy DM1 of the Mid Devon Local Plan 2013-2033.
21. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.

INFORMATIVES

1. 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>
 Please consult environmental health on requirements if needed. For structural requirements this is ideally sought before works start. The Food Standards Agency website is also a useful source of information <https://www.food.gov.uk/> .
2. The applicant must ensure the public path is kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public

right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

3. Devon Cornwall and Dorset police advise that consideration should be given to the use of robust defensive planting along the east elevation and that it should be ensured that the glazed store frontage is protected against possible vehicle attack, either accidental or premeditated, this could be achieved through appropriately located bollards/planters etc. External doors and windows are recommended to be independently security tested and certificated products to an appropriate nationally recognised standard such as PAS24:2016 or similar. It is recommended that consideration is given to the inclusion of a lockable barrier or gates at the car park entrance.
4. 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.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed erection of a food store (Use Class E(a)) with associated parking, landscaping and access arrangements is considered to be supported when the policies of the Local Plan are viewed as a whole. 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 store proposed will contribute to customer choice within the town of Criditon 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. In addition the economic benefits in terms of increased employment in the locality, financial contributions towards air quality mitigation and assistance in the relocation of Criditon Rugby Football Club 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 location. With conditions relating to landscaping, highway matters and drainage, the application scheme considered to comply with policies S1, S2, S7, S8, S9, S12, CRE11, DM1, DM2, DM3, DM4, DM5, DM15, DM25 and DM26 of the Mid Devon Local Plan 2013-2033.

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. 22/00687/HOUSE

Grid Ref: 313674 : 113186

Applicant: Mr K Philips

Location: Old Parsonage Cottage
High Street
Hemyock
Cullompton

Proposal: Retention of building for use as additional living accommodation

Date Valid: 6th April 2022



APPLICATION NO: 22/00687/HOUSE

Site Visit: Yes Date of Site Visit: 12th May 2022

Decision Delayed Reason: EOT agreed to allow to go before committee.

MEMBER CALL-IN

Cllr Simon Clist called the application in to discuss:

- Whether the building respects the character, scale, setting and design of the existing dwelling,
- Whether it is an over-development of property curtilage
- Is there significant adverse impacts on the living conditions of neighbouring occupants?
- Is the design and location acceptable?

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposal is for the retention of building for use as additional living accommodation at Old Parsonage Cottage, Hemyock. The site is within the Hemyock settlement limit, just off of High Street. The cottage is detached and set back from the main street, it is also located in the Blackdown Hills AONB. The site is not within a flood risk area.

APPLICANT'S SUPPORTING INFORMATION

Plans including site location plan.

RELEVANT PLANNING HISTORY

None.

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

Policy S1 (Sustainable Development)
Policy S13 (Villages)
Policy DM1 (High Quality Design)
Policy DM5 (Parking)
Policy DM11 (Residential Development)
Policy DM27 (Protected Landscapes)

CONSULTATIONS

Hemyock Parish Council, 6th June 2022:

The parish council is not content with the application. This building has been erected without planning permission and exceeds the height and area allowable under permitted development. It has concerns with regard to the surface water discharging onto a neighbour's land and also concurs with the comments made by both the neighbouring properties. The parish council is concerned with the increasing number of retrospective planning applications in the parish and believes there should be a penalty - possibly higher fees than a normal planning application to discourage this.

Highway Authority, 12th April 2022:

The County Highway Authority have no comments to make on this application

Environment Agency:

Householder development and alterations within Flood Zone 1 - No EA consultation required.

REPRESENTATIONS

The application was advertised by means of site notice and by neighbour notification. The application was also advertised in the local paper.

A total of 9 letters of objection have been received at the time of writing this report. These are from 3 separate households with the bulk of the objections coming from the occupants of Old Parsonage who have commented at different stages of the application process. They provided a clear letter of objection on the 30th of June 2022 to capture all of their concerns in one clear document. The concerns raised across the letters of objection have been summarised here:

- The retrospective nature of the application
- Lack of building regulations for the structure
- The intended use of the building
- Impact on neighbourhood amenity
- Parking concerns
- Fire risk concerns
- Impact of lighting
- Impact on services – water, drainage etc.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy, procedure and principle of development**
- 2. Design and neighbourhood amenity**
- 3. Impact on AONB**
- 4. Ecology**
- 5. Parking**
- 6. Flooding**
- 7. Use of the building**
- 8. Other matters**
- 9. Conclusion**

1. Policy, procedure and principle of development

This retrospective application has come about from an enforcement complaint. The building is proposed to be used as an annexe for the applicant's son and therefore does not qualify as being an outbuilding that can be achieved via Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). In any case, the building would be 0.2m too tall to fall within this permitted development criteria.

The site is in the Hemyock settlement boundary so policy S13 (villages) applies which permits appropriately scaled residential development such as extensions, outbuildings and annexes. More specifically, DM11 sets out the requirements of residential development which are assessed in full in Section 2 of this report. The site also falls within the Blackdown Hills Area of Outstanding Natural Beauty so Policy DM27 applies which is discussed in Section 3 of this report.

2. Design and Neighbourhood Amenity

DM11 of the Mid Devon Local Plan deals with residential extensions and other ancillary development, more specifically it supports this development subject to the following criteria:

- a) Respect the character, scale, setting and design of existing dwelling;
- b) Will not result in an over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties

A summary assessment against these criteria is set out below:

- a) The building is located in the rear garden area and measures approximately 4m X 5m, it comprises a mono-pitched roof design, measuring approximately 2.7m to its highest point. There is a high level window on the southern (side) elevation but the main windows and doors are on the western (front) elevation. If it was not to be proposed for annexe/living accommodation, then an outbuilding that is just 0.2m shorter could be achieved in this location under the permitted development

legislation as cited above. The building is timber clad and has a high quality appearance, allowing it to sit comfortably in the location. Given the natural materials, modest scale and high quality finishes, the building is considered to respect the character, scale, setting and design of the existing dwelling.

- b) The property benefits from a reasonable garden area and the reasonably modest outbuilding does not significantly detract from this. There is ample space remaining for the enjoyment of current and future occupiers and as such there are no concerns relating to over-development of property curtilage.
- c) The key consideration in the determination of this application is whether the building is significantly, adversely impacting the living conditions of neighbouring properties. Firstly, in terms of overshadowing and overbearing impacts, the modest 2.7m height of the building is considered to prevent any significant loss of light or overbearing impacts. The current fence between Old Parsonage Cottage and Old Parsonage is falling down and low in height. Permitted development allows a 2m high fence to be achieved which has been included on the latest plans and can be secured by way of condition. This screening combined with the modest height of the building is considered to suitably prevent any overbearing impacts. Similarly, any overlooking from the annexe into the neighbouring garden would be well restricted with anybody inside the building having to look over a 2m high fence to see into the neighbouring dwelling. There may be some viewpoints where the neighbouring garden can be spotted but this is considered likely to be a rare occurrence and fairly typical of neighbourly relationships in defined towns and villages such as Hemyock. There is also a high level window on the south elevation but given the position of the window and separation distance between the building and southern neighbouring dwelling, currently known as Waterside, there are no concerns regarding this. The comments relating to noise have also been carefully considered but ultimately it is not expected that an annexe for one individual will produce enough noise to warrant refusal of the planning application on amenity grounds and in any case, there is public health legislation which could be enforced should the neighbours have significant noise complaints on any particular occasion. Overall, there are not considered to be any significant adverse impacts on the amenity of residents of nearby properties.

3. Impact on the AONB

Given the site's position in the AONB, Policy DM27 must be considered. DM27 states that proposals affecting the Blackdown Hills Area of Outstanding Natural Beauty, Dartmoor National Park, Exmoor National Park and the North Devon Biosphere Reserve must demonstrate that:

- a) Cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and
- b) Biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation.

As set out above, the building is modest in terms of its scale and is finished with high quality materials. It sits comfortably within the garden area and is well screened from more distant vantage points. The erection of the outbuilding, many of which can be achieved via

permitted development is not expected to significantly impact the biodiversity of the AONB and overall the building is considered compliant with DM27.

4. Ecology

As set out above, biodiversity is not expected to be impacted upon as a result of the erection of an outbuilding, particularly given the scale of the building itself. The wildlife trigger list indicates that an ecological impact appraisal is not required for this development, however, the comments regarding lighting have been considered. Whilst the Council cannot control internal lighting which could be achieved via Class E permitted development buildings in any case, a condition has been added to prevent any external lighting to ensure ecology and biodiversity are protected as much as possible.

5. Parking

The comments relating to parking have also been considered. DM5 of the Local Plan required two parking space per residential development. This proposal is for annexe accommodation linked to the main house and therefore the requirement for parking is not increased. The existing parking area is not impacted upon and as such, the application is policy compliant.

6. Flooding and drainage

The comments from neighbours and the Parish Council in relation to flood risk have been noted. The site is not within a flood risk area and a building with the same roof area could be achieved via permitted development very comfortably. There are therefore no concerns regarding any potential increased surface water run-off. Should water be re-directed into neighbour's land then this would be a civil matter. Similarly, it is understood that the properties in the area share water and drainage piping and there is some concern about the legality of using these pipes for the additional annexe, however, this is also a civil matter as opposed to a material planning consideration in this instance.

7. Use of the building

The proposal is for annexe accommodation for the applicant's son. Further information regarding the need for this has been shown to the case officer but the applicants have requested that it is not within the public domain. The objections relating to the use of the building are noted but the case officer is satisfied that the proposal is indeed for annexe accommodation and that there is a link to the main house in terms of amenities. In any case, a condition is proposed to limit the building to annexe use, any separate self-contained use would require planning consent, as would any proposal for other sorts of accommodation or indecently selling or letting the building.

8. Other matters

Concern has been raised by both objectors and the Parish Council about the retrospective nature of the application. Whilst it is preferable for applications to be submitted before the erection of structures, the application still needs to be assessed on its planning merits as

has been done throughout this report. The LPA are not able to penalise applicants for a retrospective application and application fees are set by central government. It is noted that Building Control checks may not have been carried out and applicants are reminded of their responsibilities with this. Finally, the concerns surrounding fire safety are also noted but these also come under building control regulations and there is no planning reason to refuse the scheme in terms of fire safety.

9. Conclusions

Overall, the proposal is for annexe accommodation for the applicant's son. This is permissible under policies S13 and DM1 of the Local Plan and the principle of development has been established. The appearance and design of the building is considered appropriate for the AONB. Notwithstanding the concerns raised in terms of amenity, the modest scale and proposed screening are considered to negate this and on balance, any adverse impacts are not considered significant enough to warrant refusal of the application. Consideration has also been given to the other material considerations raised such as ecology and flood risk but with appropriate conditions the scheme is considered acceptable.

CONDITIONS

1. The development hereby permitted shall be taken to have begun on the 6th of April 2022, the date the application was validated by the Local Planning Authority.
2. The development hereby permitted shall be in accordance with the approved plans listed in the schedule on the decision notice.
3. The fencing hereby approved, as shown on the approved plans, shall be implemented within 3 months of the date of this permission and shall be so retained.
4. There shall be no external lighting installed on the building hereby approved without the deemed written consent of the Local Planning Authority.
5. The accommodation hereby approved shall be used as ancillary accommodation to the existing dwelling on the site (currently known as Old Parsonage Cottage) and no part shall be used, let or otherwise disposed of as a separate unit of accommodation.

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. In the interests of neighbourhood amenity in accordance with DM1 and DM11 of the Mid Devon Local Plan (2012-2033).
4. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
5. The application has been submitted and determined on the basis of ancillary accommodation and it is necessary to restrict the occupation of the accommodation

to protect the amenity of the neighbouring occupiers and because the establishment of a new dwelling in this location would require a full assessment against the Mid Devon Local Plan (2013-2033).

INFORMATIVES

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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.

REASON FOR APPROVAL

The application for the retention of building for use as additional living accommodation at Old Parsonage Cottage, Hemyock is considered acceptable as a matter of policy. The overall scale and design of the annexe accommodation is considered acceptable and there would be no adverse impacts on the property curtilage, parking provision or Blackdown Hills AONB. There would be no significant adverse impacts on the amenity of residents of neighbouring properties. As such, the scheme complies with policies S1, S13, DM1, DM5, DM11 and DM27 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

Application No. 22/00672/FULL

Grid Ref: 295336 : 112490

Applicant: Mr Nick Sanderson

Location: Development Site at NGR 295336 112490
St George's Court
Tiverton
Devon

Proposal: Formation of residential parking area and landscaping works

Date Valid: 5th May 2022



APPLICATION NO: 22/00672/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicant is 3 Rivers Developments Ltd.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Formation of residential parking area and landscaping works

The proposal relates to the adjoining 3 Rivers residential development of 39 dwellings at St George's Square, on the northern bank of the River Exe, off St Andrew Street. It is proposed to develop a parcel of land, approximately 455 square metres in area, immediately to the north of the development site. This would include the provision of hard surfacing to about 245 square metres of the site, with the remainder being landscaped. The hard surfaced area would provide eight parking spaces, and associate turning area to be used in connection with the adjoining residential development. Works have commenced on the scheme, although these are not complete. As such, this application is part retrospective.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans, design and access statement, heritage statement, flood risk assessment, wildlife trigger table

RELEVANT PLANNING HISTORY

77/01015/FULL - PERMIT date 16th September 1977

Certificate of Alternative Development for:

- (a) Car park and access road
- (b) Public open space
- (c) Town Hall Extension
- (d) Residential

87/01799/FULL - DEMCON date 12th November 1987

DEEMED CONSENT for the erection of prefabricated building for office purposes

90/00065/OUT - PERMIT date 3rd July 1990

Outline for the erection of offices and parking and construction of new and alteration to existing vehicular access

93/00348/FULL - PERMIT date 16th April 1993

Renewal of temporary permission 4/52/87/1799 for prefabricated office building

96/00520/FULL - PERMIT date 10th June 1996

Retention of temporary prefabricated office building (previously approved under reference number 4/52/93/348/R)

99/02595/FULL - PERMIT date 23rd July 1999

Retention of temporary prefabricated office building (previously approved under ref 4/52/96/520)

04/02120/CAC - PERMIT date 11th January 2005

Conservation Area Consent for the demolition of a derelict pavilion

08/00639/MFUL - PERMIT date 12th June 2009

Erection of 46 dwellings and cafe with associated car parking following demolition of 1 and 2 St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

08/00641/CAC - PERMIT date 13th August 2008

Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear

12/00745/MFUL - PERMIT date 1st November 2012

Application to replace extant planning permission 08/00639/MFUL (to extend time limit) Erection of 46 dwellings and cafe with associated carparking following demolition of 1 and 2

St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

12/00755/LBC - PERMIT date 11th December 2012

Listed Building Consent for internal and external alterations - PERMISSION ALLOWED BY NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

12/00756/CAC - PERMIT date 11th December 2012

Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear - PERMISSION ALLOWED BY

NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

13/00298/MFUL - PERMIT date 21st August 2013

Erection of 45 apartments for older persons, including communal facilities, associated car parking and landscaping, following demolition of 1 & 2 St Andrew Street

13/01600/LBC - PERMIT date 1st April 2014

Listed Building Consent for internal and external alterations

13/01601/MFUL - PERMIT date 6th March 2014

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - NON

MATERIAL AMENDMENT GRANTED 24th April 2015

2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

13/01601/MFUL/NMA - PERMIT date 24th April 2015

Non-Material Amendment for the alteration of windows - conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings

2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

13/01601/MFUL/NMAA - PERMIT date 18th June 2015

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - Non-Material Amendment to allow provision of render to walls on unit 10 and 14 in place of the existing uPVC cladding; provision of composite doors to non-listed units; retention of the small existing blockwork extension to the rear of units 9 and 10 with this being provided with a rendered finish; handing of the bedroom & lounge to Unit 9

13/01601/MFUL/NMAB - DELETE date 8th June 2015

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings (DELETED - SET UP IN ERROR)

14/01313/FULL - DELETE date 23rd September 2014

Variation of condition (2) of planning permission 13/00298/MFUL to allow the substitution of previously approved plans

14/01847/MFUL - PERMIT date 24th March 2015

Erection of 44 apartments for older persons, including communal facilities, associated car parking including construction of parking deck and landscaping (Revised Scheme)

15/00733/FULL - WDN date 13th November 2015

Variation of condition 13 (1) of planning permission 14/01847/MFUL to allow highway works to be submitted and provided prior to occupation rather than prior to implementation

17/01509/MFUL – PERMIT date 8th December 2017

Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities
S9 - Environment
S10 - Tiverton
DM1 - High quality design
DM3 - Transport and air quality
DM4 - Pollution
DM5 - Parking
DM25 - Development affecting heritage assets

National Planning Policy Framework

CONSULTATIONS

TIVERTON TOWN COUNCIL - 18.05.2022

Tiverton Town Council does not support this application because it is contrary to DM5 and would result in green space beside the river and near to listed buildings.

HIGHWAY AUTHORITY - 09.05.2022

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application.

MDDC CONSERVATION OFFICER - 06.06.2022

Further to our meeting on site earlier today. You will be aware that this site is within the setting of three listed buildings (Nos 12, 14 and 16 Angel Hill, and War Memorial Library and Hall, and the Town Hall) and is within the conservation area.

We have a statutory duty to have special regard to the setting of listed buildings and conservation areas.

The proposal is to provide parking to take the place of parking lost elsewhere on the site. It is proposed to submit amended drawings which slightly amend the position of the parking area.

I am happy that the proposal in context is not harmful to the setting of the listed buildings.

The car park level is quite high and the cars from the walkway on the far bank of the river. I would like to see some form of screening for the parking in the form of a wall or fence on the eastern boundary of the car park. This would also form a sense of enclosure and would naturally lead on from the brick wall which extends from the northern block of housing on the site. The landscaping plan may well need updating for this alteration for the extent of building on the land.

REPRESENTATIONS

This planning application has been advertised by means of two site notices being erected adjacent to the site, neighbour notification and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016).

One letter of objection has been received from a local resident. The objections is raised on the grounds of loss of approved planting and increased amount of hard landscaping. It is suggested that as the site is outside of the original boundary of the development approved by 17/01509/MFUL, the application should be refused and soft landscaped to reduce the visual impact of the residential development.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location**
- 2) Design and impact on the character and appearance of the surrounding area**
- 3) Parking and access**
- 4) Impact on residential amenity**
- 5) Flood Risk**

1) Principle for development in this location

The application is made to replace approved parking lost in connection with the adjacent residential development. It is advised that in providing the retaining boundary walls to the north of the site, adjacent to the memorial hall, it was discovered at technical stage that a significantly larger wall would be required than originally anticipated. As a result, the wall has encroached onto three of the originally approved parking spaces, effectively leading to the loss of these three spaces. Furthermore, another five spaces have been lost following the provision of 3 large accessible electric charging points that will be available for communal use.

As such, there is a reduction on site of eight parking spaces. This application seeks to provide an additional parking area on land to the north of the development, with access available via the main vehicular road at the centre of the residential development. The proposed parking would amount to eight spaces to replace those lost. In order to provide sufficient parking for the residential development, in line with policy DM5 of the Mid Devon Local Plan, and the requirements of the County Highway Authority, the proposed development is considered acceptable in principle. Subject to consideration of other relevant national and local planning policies, and taking into account site specific constraints.

2) Design and impact on the character and appearance of the surrounding area

Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

The site is also located within the Tiverton conservation area and close to several listed buildings, including numbers 12, 14 and 16 Angel Hill, and War Memorial Library and Hall, and the Town Hall. As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 192 of the NPPF advises 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.”

The above requirements in respect to heritage assets are echoed in policy S9 of the Mid Devon Local Plan, which includes the requirement that “development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets through...the preservation and enhancement of Mid Devon’s cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance, such as listed buildings, conservation areas, scheduled monuments and local heritage assets.” Policy DM25 also states that “heritage assets and their setting which are irreplaceable resources 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 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 the NPPF 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; and
- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”

In coming to this decision the council must also be mindful of the duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. The development will inevitably lead to an expansion of hard landscaping to the north of the residential development, however the siting of the parking area has allowed the retention of key existing vegetation on the margins of the site,

including trees and shrubs to the riverside frontage, and to the northern boundary of the site, separating it from neighbouring land. These will assist in softening the proposed development and reducing its visual impact. It is also proposed to include ornamental shrub planting on the remainder of the site, beyond the hard surfacing, similar to that proposed within the wider residential site. This final landscaping scheme is in the process of being devised in order to discharge the relevant conditions for 17/01509/MFUL, and this scheme will also cover the application site. As such, should permission be granted, a landscaping condition will be included.

When seen from the main public vantage points along the River Exe, the proposal will be viewed in the context of the adjoining development, and is not considered to lead to any increased harm to the general character and appearance of the area. The hard surface will be finished in permeable block paving to match that proposed in the residential development, which is considered to be acceptable.

In considering the proposal, the Council's Conservation Officer has visited the site and raised no objections. It is noted that the site car park level is quite high, where it links into the adjoining on-site road, however the Conservation Officer has suggested that modest screening would address this, providing a sense of enclosure, whilst also softening the visual impact. As such, the submitted plans have been amended to include a 1.5 metre high close board fencing to the western edge of the parking area. This measure, alongside the existing planting is considered appropriate to lessen the impact. Otherwise, the Conservation Officer has considered the impact on the local heritage assets and does not consider that the proposal is harmful to their setting.

Overall, it is considered that the proposal is acceptable and accords with policies DM1 and DM25 of the Mid Devon Local Plan.

3) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 requires that new development to provide appropriate levels of parking, taking into account the availability of public transport, and the type, mix and use of the development.

In this case, access will be provided via the residential site, and ultimately via St Andrew Street though the approved main access. The proposal therefore would have no impact on the existing access arrangements or on the wider highway network.

As discussed earlier in the report, the reason for this application is to provide eight parking spaces lost from the main residential development. As such, the proposal would effectively reinstate those lost parking spaces, bring the required levels of parking back to those considered necessary to be in line with the requirements of Local Plan policy DM5, and the recommendations of the Highway Authority.

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM5 of the Mid Devon Local Plan.

4) Residential amenity

Policy DM2 e) states that new development should be create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an*

unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”

The proposed development is located relatively close to the adjoining properties off Angels Hill and St Andre's Street, however the car park adjoins the existing approved parking areas to the front of, and under the new houses. As such, it is not considered that the proposal would lead to any additional unacceptable impact on residential amenity. The physical works are set at ground level, with the exception of the proposed fence to the western edge of the parking area. Due to the position and nature of these works, no concerns are raised in respect to impact on residential amenity as a result of overshadowing or other overbearing impact.

5) Flood risk

The site is partially located within Environment Agency designated Flood Risk Zone 3a, with the remainder within Flood Risk Zones 2 and 1. Flood Risk Zone 3a relates to land identified as having a high probability of flooding from rivers and/or sea, while Flood Zone 2 has a medium probability of flooding, and Flood Zone 1 is the lowest probability. In this case the site is adjacent to the River Exe, although is located behind existing river defences. The site is however considered to be at risk of flooding in the event of flood defences being breached.

Local Plan policy S9 requires that the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere. This is echoed in national policy guidance contained within the NPPF and National Planning Practice Guidance *Flood Risk and Coastal Change*, which seeks to direct development to areas of lowest flood risk.

In this case, the aforementioned planning practice guidance includes classifications of different types of development and a compatibility table, indicating which development types are permissible in different area of flood risk. The proposed development, which comprises a car parking area, is identified as being a 'less vulnerable' use, which is permitted within Flood Risk Zones 2 and 3a. As such, the principle of this type of development is acceptable. There is still usually the need to apply the Sequential Test, which assesses the suitability of other land within lower flood risk areas, however the size of the area to be used for providing hard surfacing, is under 250 square metres, and as such falls within the definition of 'minor development' for the purposes of consideration against flood risk. As such, the national guidance precludes the need to apply the Sequential Test. Therefore, considering that the proposed use is compatible with the Flood Risk Zones identified on site, and that there is no requirement to apply the Sequential Test, the proposed development is acceptable from a flood risk perspective.

In addition to considering the risk of flooding to the site itself, the scheme has been designed to ensure that the risk of flooding to adjacent land is not increased. This is done by the use of permeable paving with porous granular sub-base to allow infiltration of rainwater, reducing the risks of surface water runoff beyond the site. Furthermore, the site levels will slope towards the western edge of the site, tying into existing levels, maintaining exiting exceedance flow routes. The car park area will contain flatter slopes to improve flood storage. As was required with the original scheme, a 'no build' zone is proposed along the site frontage, set back from the river defences, maintaining the existing levels and leaving this area unobstructed. The hard surfaced parking area is set back seven metres from the western boundary to avoid this no build area and limit encroachment into Flood Zone 3a.

With the above taken into account, it is considered that the proposed development is suitable for the area and would not lead to an increased risk of flooding.

SUMMARY

The proposed development comprising the creation of a parking area, with associated landscaping, is considered to be acceptable. The proposal by virtue of its siting, scale and finish, will appropriately respect and relate to the character and appearance of the surrounding development, will not have a harmful impact on the character and setting of the conservation area and the significance of other heritage assets, and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. Furthermore it is not considered to cause unacceptable harm to highway safety or increase the risk of flooding locally. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S9, S10, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013 and the National Planning Policy Framework.

CONDITIONS

1. The date of commencement of this development shall be taken as the 5th May 2022, when the application was registered by the Local Planning Authority.
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 the parking area hereby permitted being first brought into use, a landscaping scheme to include details of all planting, seeding, turning or earth profiling, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall not include any planting or recreational features, benches, or tables within 4m of the River Exe flood defence wall. The approved landscaping shall be carried out within the first planting season following substantial completion of the development, or the development first being brought into use, which is sooner. Any trees or plants which, within a period of five years die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt in the interests of proper planning.
3. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

Application No. 22/00062/FULL

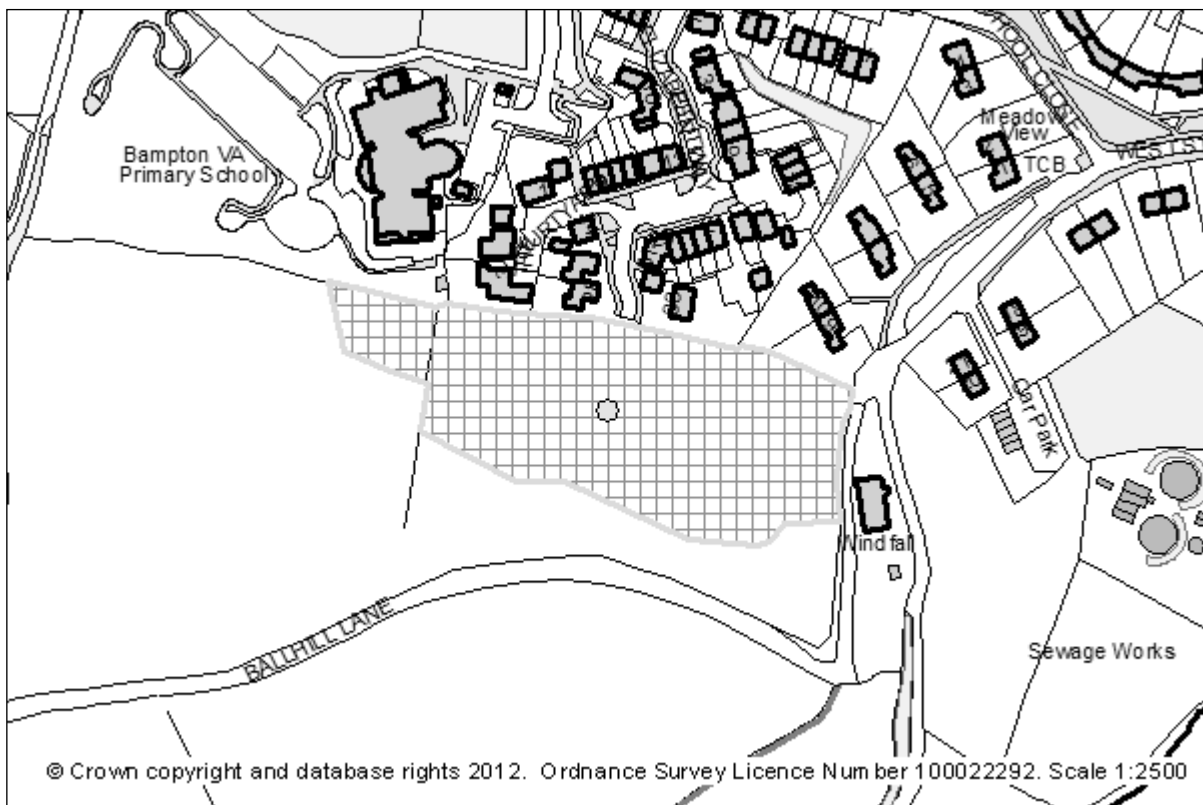
Grid Ref: 295241 : 122012

Applicant: 3 Rivers Developments Ltd

Location: Land at NGR 295241 122012
South of Elizabeth Penton Way
Bampton
Devon

Proposal: Variation of condition 2 of planning permission 20/00146/FULL for the substitution of house type plans

Date Valid: 21st December 2021



Application No: 22/00062/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicant is 3 Rivers, the Council's own development company.

RECOMMENDATION

Grant permission subject to signing of s106 deed of variation.

SITE DESCRIPTION

The site is roughly rectangular in shape and is bound by existing hedgerows on the north and eastern boundaries and by the remainder of a larger field on the western and southern boundaries. Due to the sloping nature of the site, the layout of the dwellings have been designed to follow the contours of the land, with drainage crates provided towards the front of the site. The site layout is shown in the image below for ease of reference.

The application site equates to approximately 0.86ha and relates to one of the Council's Local Plan allocations known as 'BA4 – School Close' Bampton. The site is subject to a number of previous planning application, outlined below.

PROPOSED DEVELOPMENT

A minor material amendment (section 73 of the Town and Country Planning Act 1990) is sought for the variation of condition 2 of planning permission 20/00146/FULL for the substitution of house type plans for plots 1 (HT D), plot 3 (HT A AS), plot 4 (HT A OPP) & plot 7 (HT A type 2)

Planning permission 20/00146/FULL was a full planning application which granted approval in 2021 for the erection of 9 dwellings with associated vehicular and pedestrian access. The approval includes four 4-bed houses and five 3-bed houses. Vehicular access will be obtained from Elizabeth Penton Way (in line with the previous approval) and each dwelling is provided with a rear garden, in addition to communal landscaped areas.

The applicant has stated that, 'In summary, we looked to adjust the internal arrangements of the dwellings and this necessitated some minor alterations to the window arrangements. We were very keen to ensure the composition and language of the buildings remained the same and as such sought only to make modest window adjustments. The drawings identify the changes in detail, but to summarise:

- Window and roof light positions adjusted to suit floor plans / vaulted ceilings etc;
- Transom and mullion arrangements adjusted to ensure natural ventilation to all rooms;
- Kitchen Window and door arrangement to HT D adjusted;
- With regard to the level change adjacent to plot 9. The stepped wall approach in the retained area was altered for a simpler structural solution. Increased planting in the area.'

To clarify, there are no changes proposed to the road layout or the parking or turning areas. The housetypes will be on the same footprint in the same location as that already proposed. Any increase or decrease in overall floor area quoted on the plans relates to internal alterations rather

than an increase in the building envelope. There will be no changes to landscaping apart from minor changes to plot 9. Plot 3's consented glazed roof terrace screening is to be replaced with higher solid obscure screen.

Plot 2 (HTB), plot 5 (HT B Var 2), plot 6 (HT B Var 1 AS) & plot 8 (HT B Var 1OPP) are to remain as originally consented by the original planning permission, 20/00146/FULL.

APPLICANT'S SUPPORTING INFORMATION

Revised layout and housetype floor plans and elevations.

PLANNING HISTORY

RELEVANT PLANNING HISTORY

01/00062/DET - CLOSED date 8th August 2013 Potential for residential development
09/00542/MOUT - WDN date 29th July 2009 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses
09/01163/MOUT - DELETE date 7th April 2010 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses (Revised scheme)
10/00510/MOUT - PERMIT date 11th April 2013 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses (Revised scheme)
NMA-18/01003/NMA
16/00473/MARM - PERCON date 28th September 2016 Reserved Matters for the erection of 26 dwellings with associated vehicular and pedestrian accesses
18/01003/NMA - PERMIT date 5th September 2018 Non-Material Amendment for 10/00510/MOUT to allow variation of conditions (5) and (7) regarding pre-commencement requirements
20/00146/FULL - PCO date Erection of 9 dwellings with associated vehicular and pedestrian access

OTHER HISTORY

15/01411/PREAPP - CLO date 29th September 2015
PROTECT: Proposed variation of planning permission 10/00510/MOUT to allow changes to the number of dwellings approved
17/01442/PREAPP - CLO date 17th July 2020
PROTECT - Erection of dwellings
19/02114/PREAPP - ALLOC date 19th December 2019
PROTECT: Erection of 9 dwellings and associated infrastructure

DEVELOPMENT PLAN POLICIES

National Planning Policy Framework

Mid Devon Local Plan Review 2013 – 2033

Policy S1 – Sustainable Development Priorities;
Policy S3 – Meeting housing needs;
Policy S5 – Public Open Space
Policy S9 – Environment
Policy S13 – Villages
Policy BA4 – School Close, Bampton;

Policy DM1 – High quality design;
Policy DM2 – Renewable and low carbon energy;
Policy DM5 - Parking

CONSULTATIONS

DCC Highways – no comments

Public health –

Contaminated Land No concerns - 26.01.22
Air Quality Not applicable - 26.01.22
Environmental Permitting Not applicable - 26.01.22
Drainage No concerns - 26.01.22
Noise & other nuisances No concerns - 26.01.22
Housing Standards No comments - 13.01.22
Licensing NO comments - 13.1.22
Food Hygiene No further comment - 13.01.22
Private Water Supplies No further comment - 13.01.22
Health and Safety No further comment - 13.01.22

PARISH COUNCIL COMMENTS

None received.

REPRESENTATIONS

None received.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location**
- 2) Design and impact on the character and appearance of the surrounding area**
- 4) Impact on residential amenity**
- 5) Other**

1) Principle for development in this location

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004), the application proposals should be determined in accordance with the development plan (DP) unless other material considerations indicate otherwise.

The site falls within the settlement boundary and within the Local Plan allocation BA4. The principle of development has been determined by the local plan allocation and a number of planning permissions outlined above. This variation of condition 2 (approved plans) application specifically relates to planning permission 20/00146/FULL and the substitution of house type plans.

2) Design and impact on the character and appearance of the surrounding area

Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

The proposed dwellings have been designed to have traditional barn forms i.e. rectilinear plan forms which reflect locally distinctive rural building forms. The approved material palette is as follows:

- Stone cladding to the ground floor;
- Metal cladding to the upper floors in earthy tones to match the stone on some buildings;
- Light coloured render to other units;
- Dark grey or bronze coloured windows;
- Timber front doors.

The proposed changes to the house types are as follows:

Plot 1 (HTD) – 3.1sqm increase in floor area; changes to window fenestration on southeast elevation and additional window opening; reduction in size of two windows in northwest elevation; removal of roof light on southeast roof slope; a bank of 2 roof lights centrally located on the northwest roof slope; reduction in area of glazing and position of mullion and transoms in north east elevation;

Plot 3 (HT A AS) – 2.1sqm reduction in floor area; glazed roof terrace screening replaced with higher solid obscured screen; side elevation door/window openings reduced from 5 to 4 with design changes; the roof lights relocated on lower on roof; transoms added to other side elevation;

Plot 4 & 7(HT A OPP) – 2.1sqm reduction in floor area; east elevation door/window openings reduced from 5 to 4 with design changes; side roof lights relocated lower on roof; transoms added to other side elevation; the 2 roof lights on eastern roof slope removed; roof lights on west roof slope increased from one to three;

Plot 9 (HT C) – 8.1sqm increase in floor area; reduction in roof lights from two to one; solid lower window panel (boot room) on north elevation; bedroom 3 window eastern elevation to be fully glazed (removal of solid lower panel).

These alterations are considered to be very minor changes that would not materially affect the appearance of the houses or adversely harm the design intentions of the approved scheme.

3) Residential amenity

Policy DM2 e) states that new development should be create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”*

The nearest neighbours to the site include the existing residents of Elizabeth Penton Way to the north.

The proposed replacement housetypes would be sited in the same locations, with the same footprint and building envelope as those already consented. The change in floor areas outlined

above relates to internal changes to the layout and not an increase in the building envelope. The proposed alterations would not materially increase the number of glazed windows/doors. There would therefore be no additional impacts on neighbour amenity. Indeed, in many cases the windows are being reduced in size.

As originally submitted officers raised concern regarding plots 3,4 and & 7 which showed roof lights in lower position, which would have provided the opportunity to overlook the rear gardens to the adjoining plot. Revised plans have now been submitted to the satisfaction of officers. The overlooking concern has been resolved by raising the roof lights for plot 7 to have a minimum cill height of 1700mm, which will adequately restrict any adverse overlooking. The roof lights to plots 3 & 4 have been relocated to their opposing roof slopes to remove the opportunity to overlook rear gardens. Whilst the roof lights to plots 3 & 4 would in effect face each other, due to the pitch of the roof and because these plots are at an angle, it is considered that there would be no undue overlooking. The lower roof light height would also provide bedrooms that have a much improved aspect for future residents when compared to high level roof lights as originally proposed.

6) Other

S106 legal agreement

The original permission is subject to a S106 planning obligation. There will therefore need to be a deed of variation to this agreement to ensure that this s73 is linked to the planning obligations. The s106 agreement included the following obligations:

£11,442.00 public open space contribution to be allocated to improvements to POS at Bampton Motte and Bailey;
£4078.00 transporting secondary pupils from the development to Tiverton High School;
£325,000 (max sum payable following viability review) - viability contribution for the purpose of providing affordable dwellings within Mid Devon District;
£1504.31 - Monitoring fee;

The Town Council has requested that the POS contribution is diverted from the Bampton Motte and Bailey to develop facilities at the Millennium Green which provide more opportunities for teenagers in Bampton e.g. pump track and exercise circuit.

The proposed change is considered to satisfy the legal tests for s106 and is considered to be reasonably related to the proposed development. It is therefore proposed to change the wording of the POS definition within the s106 to state:

Public Open Space Contribution: the sum of 11,442.00 (Eleven thousand four hundred and forty two pounds) to be allocated to the provision of teen facilities on public open space within Bampton.

This form of wording will provide some flexibility for the town council should the exact location change.

Conclusions and planning balance

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004), the application proposals should be determined in accordance with the development plan (DP) unless other material considerations indicate otherwise.

The development proposes a development of 9 units within a site allocated under the Mid Devon Local Plan 2013 – 2023. The principle of development on this site has been previously accepted. The proposed revisions are considered to be minor in nature, would not harm the design of the consented scheme, would not alter the layout or parking provision or have further impacts on the amenity of adjacent residential properties.

The application is therefore recommended for approval subject to the recommended conditions and a S106 deed of variation. The development is considered to meet Policies S1, S3, S5, S9, S13, BA4, DM1, DM2 and DM5 of the Mid Devon Local Plan 2013-2033.

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 complete accordance with the application form and the following approved plans:

Received 09.05.2022

Site Location Plan L0101 Rev C
Site Layout – L 0201 Rev F
House Type Plan L 0202 Rev E
Boundary Treatments L 02 03 Rev D
Parking Layout L0204 Rev E
Bin storage strategy L0205 Rev D

190910 HT 01 04 C HT A OPP Proposed Floor Plans
190910 HT 01 05 C HT A OPP Proposed Elevations
190910 HT 01 06 C HT A OPP Proposed Elevations
190910 HT 01 07 . HT A type 2 Proposed Floor Plans
190910 HT 01 08 . HT A type 2 Proposed Elevations
190910 HT 01 09 . HT A type 2 Proposed Elevations

Received 12 01.2022

190910 HT 03 01 B HT C Proposed Floor Plans
190910 HT 03 02 C HT C Proposed Elevations
190910 HT 04 01 B HT D Proposed Floor Plans
190910 HT 04 02 B HT D Proposed Elevations

Received 07.07.2022

190910 HT 01 01 E HT A AS Proposed Floor Plans
190910 HT 01 02 E HT A AS Proposed Elevations
190910 HT 01 03 E HT A AS Proposed Elevations

Received as part of original submission

190910 HT 02 01 A HT B Proposed Floor Plans
190910 HT 02 02 A HT B Proposed Elevations
190910 HT 02 03 B HT B Variation 1 AS Proposed Floor Plans
190910 HT 02 04 B HT B Variation 1 AS Proposed Elevations
190910 HT 02 05 A HT B Variation 2 Proposed Floor Plans
190910 HT 02 06 A HT B Variation 2 Proposed Elevations
190910 HT 02 07 - HT B Variation 1 OPP Proposed Elevations
190910 HT 02 08 - HT B Variation 1 OPP Proposed Elevations

190910 L 03 01 B Landscape General Arrangement Plan 1 of 2
190910 L 03 02 B Landscape General Arrangement Plan 2 of 2
190910 R 01 01 B Design and Access Statement
190911 R 04 01 - Proposed Soft Works Schedule
190910 Se 02 01 A Proposed Site Sections
190910 S 02 01 - Accommodation Schedule
190910 D 04 01 - Typical Soft Tree Pit
190910 D 04 02 - Typical Post and Wire Hedgerow

- Tree Protection Plan 05378 TPP 180220
- Drainage Strategy Layout 1004PL02
- Highway Layout 2101 PL01
- S38 Layout 2101PL01

3. The development hereby approved shall be strictly undertaken in accordance with mitigation measures outlined within the hereby approved Ecological Impact Assessment report as prepared by Clarkson and Woods.

4. The development hereby approved shall be strictly undertaken in accordance with the hereby approved Flood Risk and Drainage Assessment as prepared by Sands.

5. Notwithstanding the submitted details, a Landscape Management Plan will be submitted to and approved in writing by the Local Planning Authority prior to commencement above dpc level. The management plan will provide details of the timescale in which the landscaping will be implemented including trees and hedgerow and will outline how the landscaping will be managed in perpetuity. The development will be carried out in accordance with the approved details.

6. The development shall be carried out in accordance with the approved strategy for the removal and deposit of the excess soil agreed by discharge of condition (20/00146/FULL) letter dated 03.09.2021.

7. The development shall be carried out in accordance with the approved Construction Environmental Management Plan as prepared by Atlas Safety Management dated 10 June 2021, which accompanied the discharge of condition application for 20/00146/FULL.

8. Notwithstanding the submitted plans, details including elevations and materials of all boundary treatments as shown on approved plan L0203 Rev B will first be submitted and approved in writing by the Local Planning Authority prior to their implementation. No dwelling will be occupied until such details have been approved and implemented.

9. No dwelling shall be occupied until the parking has been laid out in accordance with the approved parking plan L0204 Rev C and. Once laid out, the parking for each property will be retained and maintained thereafter.

10. The development shall be carried out in accordance with the approved Biodiversity Mitigation and Enhancement Plan dated July 2021 as prepared by GEConsulting, which accompanied the discharge of condition application for 20/00146/FULL.

11. The development shall be carried out in accordance with the Reptile Mitigation Strategy approved by discharge of condition letter (20/00146/FULL) dated 03.09.2021

12. All retained hedgerows grass margins and trees will be protected during construction with appropriate fencing and a minimum 2m Biodiversity Protection Zone (BPZ) or the Root Protection Zone (RPZ) of the trees, as agreed by discharge of condition decision letter (20/00146/FULL) dated 19th August 2021. No hedgerow removal will take place unless preceded by a check for nesting birds and conducted under a watching brief from a competent ecologist who holds a dormouse licence.

13. Each dwelling hereby permitted shall be fitted with a built in bat or bird box prior to occupation of the dwellings hereby approved. The owner will notify the Local Planning Authority in writing once installation of the bat or bird boxes has been completed.

14. 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.

15. When once constructed and provided in accordance with condition 13 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.

16. The development shall not be carried out otherwise than in strict accordance with the details of the finished floor level(s) of the building(s) which shall have first been submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall thereafter proceed in accordance with the approved details.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and reenacting that Order with or without modification) no development of the types described in Classes [A];[B];[C] of Part [1] of Schedule 2 shall be undertaken on the premises (other than those expressly authorised by this permission)

18. Prior to the dwellings hereby approved being occupied, a plan illustrating provision for cycle storage for each dwelling shall first be submitted to and approved in writing by the Local Planning Authority. The approved details will thereafter be implemented on site before the dwellings are occupied.

REASONS FOR CONDITIONS

1. In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
4. To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream.
5. In the interests of local amenity and protection of the character and appearance of the local area.
6. In the interests of local amenity and protection of the character and appearance of the local area. Required prior to commencement to ensure proposals put forward are acceptable prior to impact on local area.
7. In the interests of protecting local amenity and to minimise the impact on the highway network and nearby residential properties during the construction period. Required prior to commencement to ensure proposed management plans are acceptable before operation comes into force.
8. In the interests of protecting local amenity and protection of the character and appearance of the local area.
9. To ensure there is adequate parking available at all times for the development, thereby minimising any impact on the nearby estate roads, and in the interests of protecting the local amenity.
10. For the conservation and protection of legally protected species and for the enhancement of biodiversity. Required prior to commencement to ensure suitable mitigation measures are put in place.
11. For the conservation and protection of legally protected species and for the enhancement of biodiversity. Required prior to commencement to ensure suitable mitigation measures are put in place.
12. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
13. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
14. To ensure that adequate information is available for the proper consideration of the detailed proposals.
15. To ensure that these highway provisions remain available
16. In the interests of protecting local amenity. Required prior to commencement in order that the development does not cause impact on the landscape or neighbouring properties until satisfactory details have been submitted and approved.
17. To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity.
18. In order to provide suitable storage provision for bicycles in view of ensuring sustainable transport options and in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities.

This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The development proposes a development of 9 units within a site allocated under the Mid Devon Local Plan 2013 – 2023. The principle of development on this site has been previously accepted. The proposed revisions are considered to be minor in nature, would not harm the design of the consented scheme, would not alter the layout or parking provision or have further impacts on the amenity of adjacent residential properties.

The application is therefore recommended for approval subject to the recommended conditions and a S106 deed of variation. The development is considered to meet Policies S1, S3, S5, S9, S13, BA4, DM1, DM2 and DM5 of the Mid Devon Local Plan 2013-2023.