

Application No. 22/00672/FULL

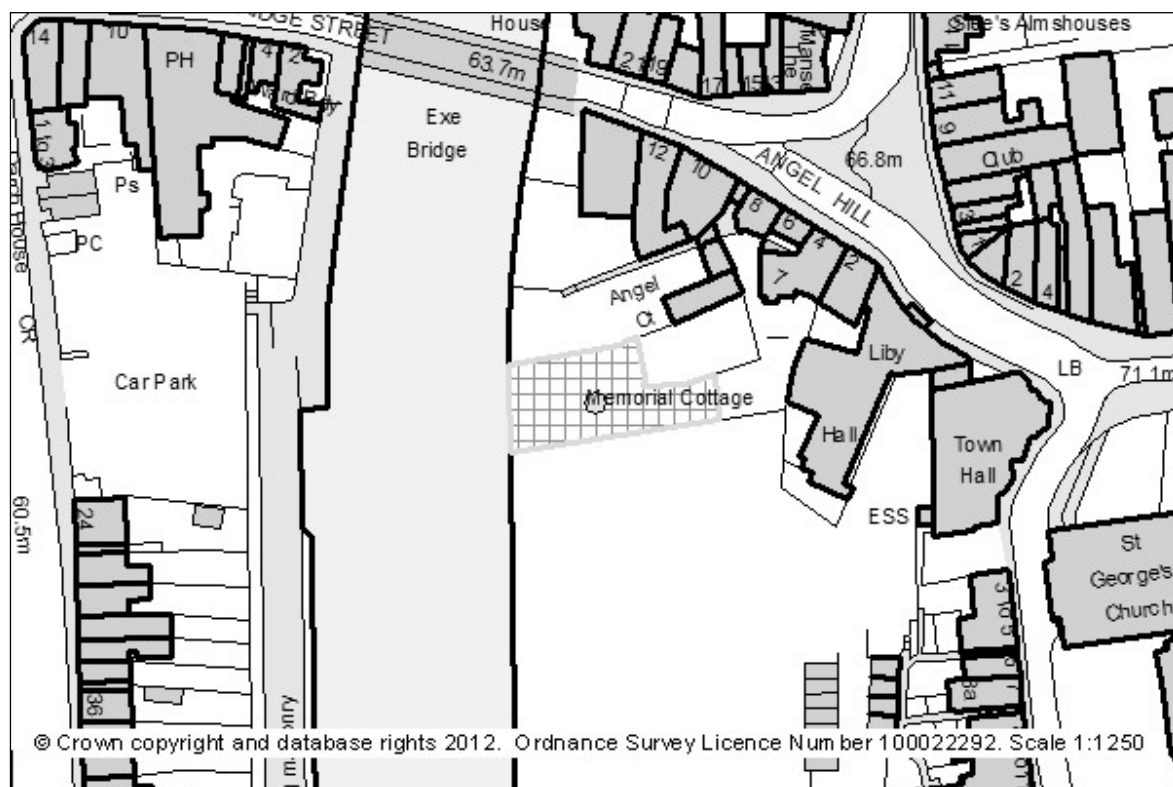
Grid Ref: 295336 : 112490

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 Zone3a, 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.