

PLANNING COMMITTEE AGENDA - 9th April 2025

Applications of a non-delegated nature

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

Application No. 25/00277/NMA

Grid Ref: 295480 : 112723

Applicant: Mrs Claire Parker, Mid Devon District Council

Location: Former Drop In Centre
Newport Street
Tiverton
Devon

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

Date Valid: 10th March 2025



APPLICATION NO: 25/00277/NMA

Site Visit: No

Decision Delayed Reason:

To allow the application to go before Planning Committee.

MEMBER CALL-IN

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

RECOMMENDATION

Grant permission for the following non-material amendment:

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

PROPOSED DEVELOPMENT

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

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

APPLICANT'S SUPPORTING INFORMATION

Application form and revised plans.

RELEVANT PLANNING HISTORY

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

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

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

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

DEVELOPMENT PLAN POLICIES

The Town and Country Planning Act 1990

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

CONSULTATIONS

None

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

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

1. **Background and planning history**

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

2. **Non-material amendment process**

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

3. **Proposed changes**

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

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

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

REASON FOR APPROVAL

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

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

Application No. 25/00148/FULL

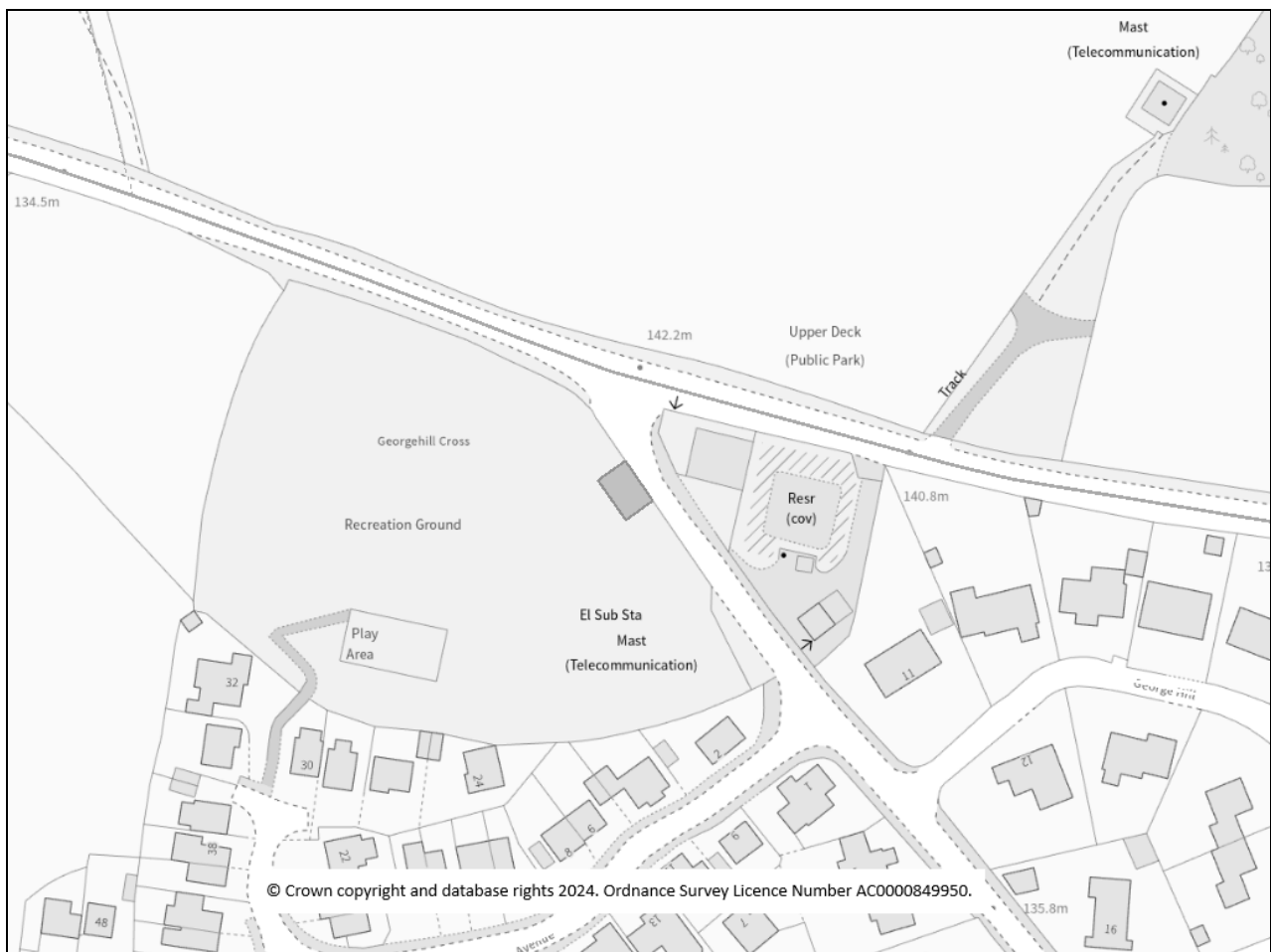
Grid Ref: 282410 : 100915

Applicant: Miss Amanda Fairman

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

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

Date Valid: 3rd February 2025



APPLICATION NO: 25/00148/FULL

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

REASON FOR REFERRAL TO COMMITTEE

The application is located on MDDC land.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

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

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

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

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

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

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

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

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

APPLICANT'S SUPPORTING INFORMATION

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

Additional/ revised information received on 12th March 2025

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

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

RELEVANT PLANNING HISTORY

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

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

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

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

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

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

Crediton Neighbourhood Plan 2018 to 2033

D1 Development Principles

En1 Open Spaces

National Planning Policy Framework

National Planning Practise Guidance

CONSULTATIONS

CREDITON TOWN COUNCIL- 6th March

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

HIGHWAY AUTHORITY- 12th February 2025

No comments

MDDC PUBLIC HEALTH- 26th February 2025

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

MDDC TREE OFFICER- 10th March 2025

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

REPRESENTATIONS

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

The following properties were written to:

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

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

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

1. Policy and principle of development

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

2. Design, appearance and amenity impacts

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

3. Impacts to heritage assets

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

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

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

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from 15th February 2024 (being the decision date of the original planning permission).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.
4. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.
5. Prior to commencement of development a Method Statement and Management Plan for the protection of trees and hedgerow (both prior to and during construction works) shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. Before the development hereby approved is brought into its intended use, details of the proposed tree planting shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include the size, species and timescale for their planting. Thereafter the proposed trees must be replaced within the same growing season and in accordance with the agreed specification should they be damaged, uprooted, destroyed or die.

REASONS FOR CONDITIONS

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

INFORMATIVES

1. This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.
2. The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.
3. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

BNG – BIODIVERSITY NET GAIN

Is BNG Required? No

Is BNG Offsite only n/a

Onsite only n/a

Offsite and Onsite n/a

Is a S106 agreement required? n/a

Applications made/granted pre 12/02/2024

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

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

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

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

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

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

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

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

REASON FOR APPROVAL

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

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

Application No. 25/00147/FULL

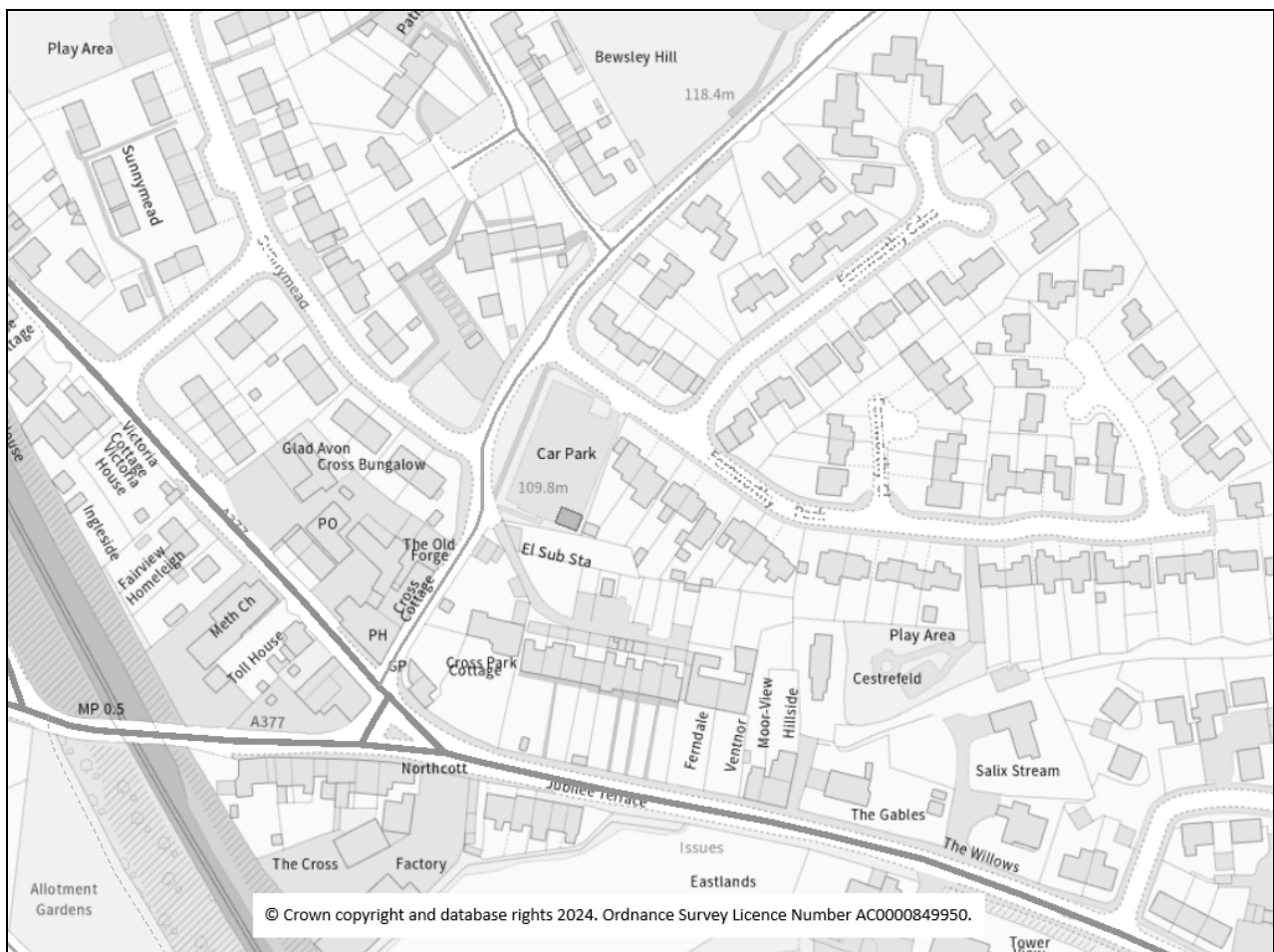
Grid Ref: 277126 : 102693

Applicant: Miss A Fairman

Location: Car Park
Fernworthy Park
Coplestone
Devon

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

Date Valid: 3rd February 2025



APPLICATION NO: 25/00147/FULL

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

REASON FOR REFERRAL TO COMMITTEE

The application is located on MDDC land.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

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

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

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

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

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

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

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

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

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

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

APPLICANT'S SUPPORTING INFORMATION

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

RELEVANT PLANNING HISTORY

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

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

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

National Planning Policy Framework

National Planning Practise Guidance

CONSULTATIONS

Copplestone Parish Council

(26.02.25)

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

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

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

Public Health

(26.02.2025)

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

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

(26.03.2025)

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

REPRESENTATIONS

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

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

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

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

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

1. Policy and principle of development

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

2. Design, appearance and amenity impacts

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

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

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

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

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

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

CONDITIONS

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

REASONS FOR CONDITIONS

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

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

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

INFORMATIVES

1. This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.
2. The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.
3. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

BNG – Biodiversity Net Gain

Is BNG Required? No

Applications made/granted pre 12/02/2024

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

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

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

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

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

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

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

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

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

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

