

Application No. 14/01332/MOUT

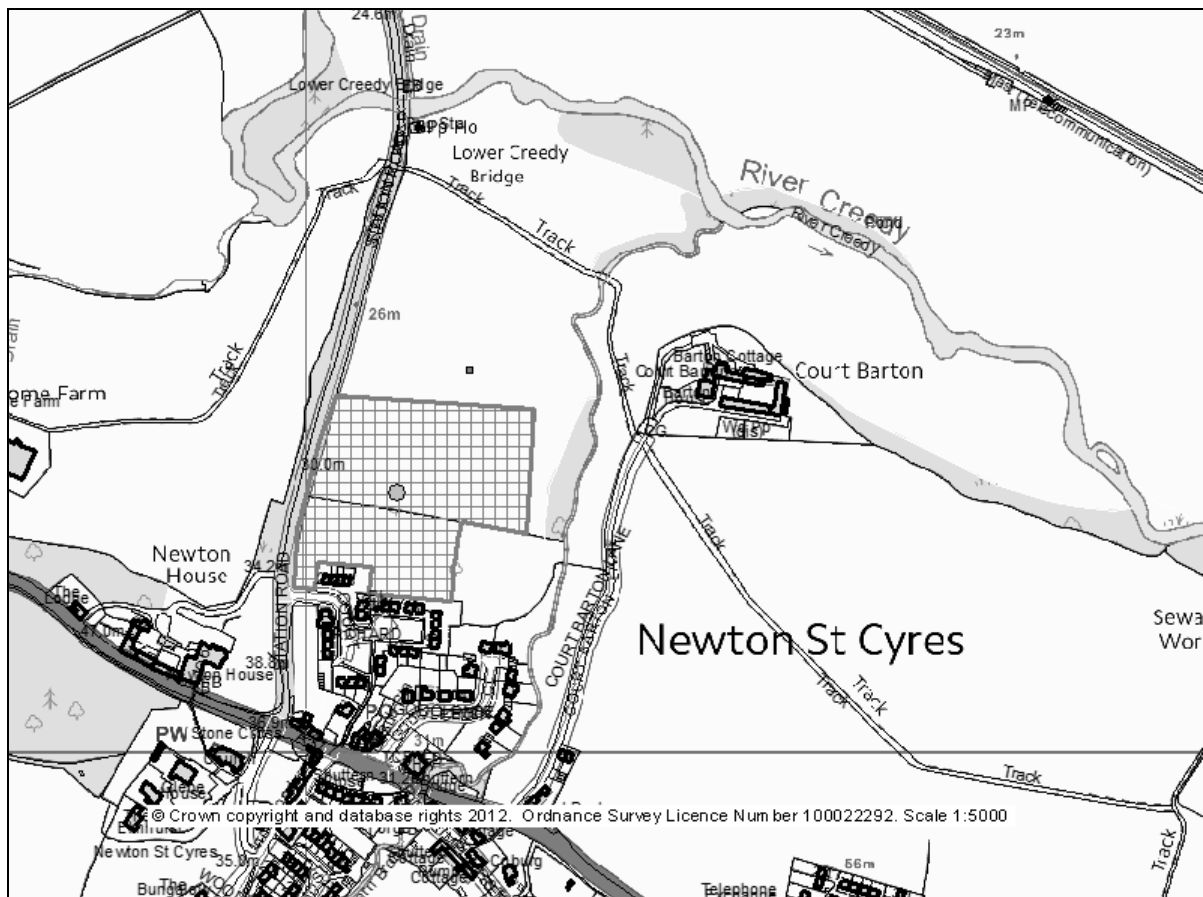
Grid Ref: 98337 : 288144

Applicant: Mr J Quicke

Location: Land at NGR 288080 098230 East of Station Road Newton St Cyres Devon

Proposal: Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space

Date Valid: 5th August 2014



Update Report for the 5 October Planning Committee meeting.

1. The Planning Committee considered matters in relation to the off- site highway works required as part of the proposed school and housing development at Newton St Cyres at the meeting on the 7th September. The update report prepared for that meeting and the original report dated 3rd August follow on from this further update note (hereafter referred to as the Reports).

2. As set out in the Reports members considered two recommendations. Whilst they resolved to approved Recommendation 1, the 2nd recommendation which was in regards to the scope of works to be delivered at the junction of Station Road and the A377, as required by condition 10 of the outline planning permission and as shown on the drawing at appendix B, was not approved. The recommendation which members considered and the resolution which was passed are set out below:

Recommendation: Neither the new school and associated facilities nor the housing shall be occupied until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377 as shown on drawing number 4058 rev D hereby approved have been constructed and made available for use.

Resolution: The managed one way scheme at the junction of the A377 and Station Road which is now proposed to satisfy condition 10 not be agreed and be refused on the following grounds that in the opinion of the Local Planning Authority the proposed managed one way system would be likely to lead to unacceptable inconvenience and highway danger to road users arising from the concentration of traffic flows at peak times resulting in unacceptable queuing and reversing movements contrary to policies COR9 Core Strategy (Mid Devon Local Plan Part 1) and DM2, Development Management Policies (Local Plan Part 3).

3. In advance of considering this report, members will have had an informal briefing on 26th September, with updates from the land promoters team as to how they have sought to progress matters since the meeting on the 7th September. This will have included:

- i) The scope of the ongoing discussions to acquire the 3rd party land in order to deliver a two way arrangement in full.
- ii) The programme to deliver the new school in Newton-St-Cyres and how it is currently affected by the ongoing discussions regards the junction works.
- iii) The scope of the improvements to the junction that have been built in to the revision D design, and the implications that are considered likely focusing on the members reasoning given at the last meeting as set out above.

4. A further written update regards the first two matters will be circulated for members information following the briefing on the 26th September. The scope of this reports seeks to set out the key points (5-9) in relation to the consideration of the junction design, in order for members to objectively review the scheme as shown on the drawing at appendix B. A further plan is attached at appendix C which shows the junction design as proposed but in more detail.

5. Station Road is currently less than 4.8m wide over a length of circa 30m and is constrained by stone walls and banks on either side. This results in restricted two-way movement with no control of priority over the narrow section. The forward visibility into the narrow section is also compromised by a “hump” in the road which means that when you enter the narrow section you cannot clearly see what traffic is turning off the A377. Please refer to inset plan at appendix C, and yellow shaded area.

6. The proposed arrangements are shown in more detail on the proposed plan shown at appendix C confirming that the scheme provides an additional 28m of two-way traffic (at 5.5m width) as shown by the pink shading. Therefore the junction improvements as proposed do include significant widening to Station Road irrespective of whether the third party land is available to be incorporated into the scope of the improvement works.

7. This leaves just a circa 7.6m length (about a car and a half length) of carriageway which would remain at less than 4.8m wide as shown by the yellow shading. One of the concerns expressed by members was that the scope of improvements would result in danger on the highway as vehicles would be likely to queue back onto the A377 especially at peak times. The give way stopping line is shown on the proposed plan and the photograph attached at appendix D demonstrates the forward visibility that would prevail for drivers heading towards the junction and in order to decide if it would be safe to continue with their journey. This is a considerable improvement to the existing situation where forward visibility is obscured from much further back – refer to inset plan at appendix C. The scheme has been designed so that there would be no queuing back onto the A377.

8. As referred to in the Reports the scope of the works to the junction have been independently assessed (Road Safety Audits 1 and 2). At both stages of the assessment process it has been concluded that the junction improvements as proposed (refer to appendices B and C) are acceptable and offer a significant betterment to the forward visibility at the junction, which was the main area of concern as expressed by DCC as the Highway Authority when the outline planning application was assessed. As stated in the Reports and at the meeting on 7th September the Highway Authority are supportive of the scope of works proposed.

9. Notwithstanding the advice from the Highway Authority, the Committee were particularly concerned about the highway safety for Pupils travelling to the school and at the am and pm peak when the junction would be most used by parents travelling by car and walking to the school. The Head teacher at the School has been aware of these concerns and has asked that Members be advised of the following information.

- Walking to school with the school at its current location is not satisfactory, there are two paths, one is very uneven, narrow and slippery, the other is next to the A377 and makes the children and parents feel very vulnerable and they get very wet with the spray from vehicles when the roads are wet. Both routes are quite some distance from the Parish Hall car park and up a steep hill, whereas the new school is along a shorter route and is significantly flatter route.
- As part of their move the school have developed a travel plan which they will encourage pupils, staff and parents to observe. As part of this process an exercise has been completed to identify where children currently live and who will need to use the A377/Station Road junction when the school moves. They have asked staff, parents and children how they were likely to travel to the new school, on the basis that the school day is staggered from 7.30am – 9am and 3.30pm - 6.30pm.
- The number of parents who have indicated that they would be willing to walk has increased and also taking into account the number of children who would now not need to use the junction due to where they live means a realistic reduction in traffic along Station Road is likely. The Crown and Sceptre Public House has kindly agreed to let parents park in the car park (which is on the same side of the A377 as the new school). The school will also introduce a walking bus which will start in the Parish Hall car park, cross the A377, pick up the children from the Crown and Sceptre and walk

them on to school. It is believed that both of these initiatives will further incentivise parents to not drive to school along Station Road. For members information the walking route would be via the public footpath leading to Court Orchard and onto the School, bypassing the junction

10. In summary this update report clarifies a number of key issues that are critical for an objective assessment of the proposed scheme of work for the junction as shown on the plan at appendix B and in more detail at appendix C. As stated above Members will be provided with a further written update to clarify matters in relation 3 (i) and (ii) as referred above and before the meeting on 5th October which they may consider material to their consideration of this matter, Notwithstanding, it is considered that the information as set out above should satisfy members that the scheme of improvements at the junction that they are being asked to consider acceptable to discharge condition 10 of 14/01322/MOUT would not result in highway safety concerns and/or danger or inconvenience for users as a result. Therefore members are respectfully requested to endorse recommendation 2 as set out below, and as originally presented in the Reports.

Recommendation: Neither the new school and associated facilities nor the housing shall be occupied until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377 as shown on drawing number 4058 rev D hereby approved have been constructed and made available for use.

Update Report for the 7 September Planning Committee meeting.

1. A report was published for the Planning Committee meeting on the 3rd August regards matters relating to the proposed school and housing development at Newton St Cyres. The report sets out two recommendations regarding the scope of and programme for the completion of works to the highway required in order to make the development acceptable, in particular improvements to the junction of Station Road and the A377. The report follows on from this Update note, and the further comments below should be read in conjunction with the main body of the report.
2. The report was not considered by the Committee as a local resident questioned the information / evidence relevant to support recommendation 2, which required further input from the Highway Engineer at Devon County Council who was not able to respond in time for the matter to be considered at the meeting. The issue related to the consultation comments provided by the Highway Authority as set out on page 4 of the report, and a reference within the Stage 1 Highway Safety Audit (referred to hereafter as the Stage 1 report) that was mis-interpreted by a local resident. The section of the Stage 1 report that resulted in confusion is the statement at 2.2 of that report as is set out below. The mis- interpretation being that the conclusions of the Stage 1 report require the widening of the junction in order to support the school and the housing. Mr Sorenson from the Highway Authority has provided further comments as summarised below at point 3 below which explain the views of the Highway Authority in order to assist members consideration of the matter.
3. At the pre application stage it was accepted that the school could operate safely with a managed one –way priority system, although if full widening could be achieved it would be desirable. Contact was made with the owner of the land which would be required to deliver the full widening option and there was an indication at that stage that he may be willing to sell part of his land. A design was undertaken showing both the priority system and full width widening and were submitted to support the planning application submission. As part of that design , the Highway Authority designers raised concerns over forward visibility through the junction for any additional traffic and as such the desire to see the full width widening was advised for when the planning application was determined (refer to condition 10 of the planning approval).

During the section 106 negotiations the Highway Authority was approached by the applicants agents over the availability of the third party land and whether or not the priority system would be acceptable. The Highway Authority advised it would accept the advice of an independent safety audit. The stage 1 independent safety audit (*extracts referred to in italics below*) was undertaken and while it differentiated between the two options (i.e the managed one way priority system and the full widening) it did not raise a safety concern over the forward visibility at the junction, although it was recommended that hatch marking be undertaken.

2.1 Problem

Location – Junction Bellmouth.

Summary – The existing left turn into Station Road from the A377 subtends an angle of approx. 1150. There is a high rock face / stone wall on the nearside that hinders forward visibility into / out of Station Road. However, on site observation indicates that this 'natural' feature engenders a slow purposeful slow speed turn into Station Road. Collision data indicates that only one PIA has been recorded in the past 5 years (September 2012 - Slight).

The proposed priority working gives precedence to inbound vehicles (from the A377) with the Give Way line approx. 30m back from the A377 Stop Line.

The Auditors are concerned that vehicles on Station Road, approaching the A377 may have a reduced forward visibility distance possibly in the order of 18m / 20m to oncoming traffic as they make a decision to commit to passing the 'priority' Give Way line. This could lead to possible vehicle / vehicle conflict.

Recommendation

It is recommended that the designer investigates the possibility of providing a 'new' left hand turn radius channel line and hatching to move vehicles closer to the junction centre line and subsequently increasing the available forward visibility distance.

2.2 Residential Development and School

No discernible safety issues observed but would recommend that within the Phase 2 works that formalisation e.g. full height kerb or half height (450 kerb face) with overrun area of the recommendation at 2.1 could be implemented.

On the basis of the advice in the Stage 1 report the Highway Authority have accepted the recommendation that the hatch marking overcame the concern for the forward visibility and no longer had reasonable grounds to refuse the priority system for the full development. This interpretation has been subsequently justified by the stage 2 independent audit which has explicitly assessed the design with both the school and new housing in mind.

In summary the volume of traffic which would be generated by the development and the capacity of the road were not in question only the risk of conflict in the existing section of single lane carriageway. The layout and design of the improvements for the one way managed scheme (refer to Appendix B) minimises that impact and risk to an acceptable level given that the transport assessment indicates that a queue of 2 vehicles can be expected post development completion (based on proposed AM peak being 117 vehicles per hour).

Therefore the provision of only the priority system to serve the development is acceptable to the Highway Authority. The Highway Authority do not feel they could sustain a reason for refusal if the full width was not provided. The Full widening still remains a desire but would only be advisable to the applicant. The off- site works once completed will be subject to the stage 3 safety audit which may necessitate further works if deemed necessary and the works will be subject to a section 278 legal agreement to that effect.

4. The additional points as set out above in conjunction with the content of the main body of the report that follows are considered by your officers to justify Recommendation 2 as set out – to confirm agreement to the managed one way scheme.

REPORT OF THE HEAD OF PLANNING AND REGENERATION

**14/01332/MOUT - OUTLINE FOR A MIXED USE DEVELOPMENT
COMPRISING OF A PRIMARY SCHOOL AND PRE-SCHOOL WITH
ANCILLARY FACILITIES INCLUDING SPORTS PITCH AND
PARKING AND TURNING AREA; ERECTION OF UP TO 25
DWELLINGS WITH PARKING AND OPEN SPACE - LAND AT NGR
288080 098230 EAST OF STATION ROAD NEWTON ST CYRES
DEVON**

Reason for Report:

The approved scheme of development established by the outline planning consent permission was granted subject to a number of planning conditions. Of particular relevance to this report are conditions 6 and 10 as set out below:

6. The commencement of development of the new school building and associated facilities or the new housing hereby approved shall not be commenced until:
 - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - c) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

10. No development shall take place on site until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377, inclusive of but not limited to road widening, signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local Planning Authority and has been constructed and made available for use.

Since the outline consent was granted work has been going on in the background by the landowners team and your officers have been engaged in pre-application discussions on the reserved matters details for both the new school and the new housing. As a result there are matters in relation to condition 6 and 10 that require further consideration by the Planning Committee.

RECOMMENDATION(S)

1. **Confirm agreement in principle (subject to the submission and resolution of a formal application – section 73A) that conditions 6 and 10 are amended so that they are not a pre-commencement conditions, with the trigger for the completion of the works covered by each condition set as.**

6. The first occupation of either the new school building and associated facilities or the new housing shall not take place until the following works have been completed.

a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway

b) The ironwork has been set to base course level and the visibility splays required by this permission laid out

c) The footway on the public highway frontage required by this permission has been constructed up to base course level

10. The first occupation of either the new school building and associated facilities or the new housing shall not take place until until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377, inclusive of but not limited to road widening, Signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local planning Authority and has been constructed and made available for use.

2. Confirm agreement to the managed one way scheme at the junction of the A377 and Station Road which is now proposed to satisfy condition 10

Relationship to Corporate Plan: To ensure the delivery of key plans for Mid Devon including improving community facilities, better homes, empowering local communities and caring for the environment.

Financial Implications: None specific for MDDC, but with timing for the delivery of the off-site works as set by the conditions as currently drafted the current delivery programme for the new school would not be achieved which could threaten the availability of the funding package that is currently in place.

Legal Implications: To update the previous committee resolution to ensure compliance and avoid risk of legal challenge.

Risk Assessment: The risks are set out above and in the main body of the report.

Consultation carried out with:

1. Devon County Council – Highway Authority. Refer to email sent on 07/07 to case officer as set out:

The application offered two scenarios for the road improvements, one with the priority system, and one with the full widening. The preferred option for the Highway Authority would be the full widening. The owner of the third party land had indicated he would be willing to sell the land and so there is a presumption that the full widening can be achieved in planning terms.

The applicant, I am led to believe approached the third party land owner who would only accept "Key" ransom value for the land. The applicant approached the Highway Authority about reverting to the priority scheme, and was advised that if it passed independent Safety Audit, the Highway Authority would not be able to insist on the full widening. The applicant undertook to appoint an independent Auditor who identified the forward visibility and

recommended a white line hatching as mitigation. Such a hatching is included in the design attached to the section 106 agreement with Devon County Council and the Highway Authority would not be able to support a recommendation of refusal as it complies to the audit recommendations and would be unreasonable in an appeal situation.

It should be noted that the independent nature of the auditor is paramount to their business and their integrity would not be compromised by who commissioned the report. Indeed in this particular instance one of the Auditors was a former County Safety Auditor with considerable experience.

Therefore while the plan does not provide the desired full widening, It would not be reasonable to refuse the application given the transport statements and the independent Audit. However should the applicant negotiate the delivery of the widening subsequent to the planning approval of the priority the highway Authority would be happy to receive such a proposal.

The independent Auditor will carry out a stage 2 audit at detail design stage, a stage 3 audit at completion on site, and a stage 4 audit 12 months after being brought into use and any recommendations at each stage will need to be taken into account.

2. Education Funding Agency - Priority School Building Programme (PSPB) Capital Team. Refer to email sent on 12/07 to case officer as set out:

Further to our conversation yesterday please note that on behalf of Elliot's the contractor for the New School at St Cyres we are requesting a formal variation to the conditions as outlined in the Outline Planning Consent (Reserved Matters). We request that all pre start conditions associated with the school are varied to become a condition of the School occupation i.e. school open. The justification is that the off-site works being delivered by a third party pursuant to the outline consent, are unlikely to progress in sufficient time to enable the EFA to meet the delivery programme for the new school.

1.0 Implications of revising the wording of conditions 6 and 10.

- 1.1 Notwithstanding if the Committee indicate a favourable response to this issue, the applicant(s) would need to submit a formal application. However as stated above in the response from EFA, the timescales for delivery of the off- site works as currently required would prejudice the delivery of the new school as in order to meet the projected opening date, as the works on site will need to commence in quarter 4 of 2016. At the time of writing given the design work phase/ Section 278 process (agreement with the Highway Authority to complete works on the highway) remain ongoing, the off-site highway works as required by condition 6 and 10 will not be completed in time to enable an on-site start in quarter 4 of 2016.
- 1.2 The alternative wording as drafted in the recommendation section of this report will enable the commencement of development of both the school and new houses, but does not enable occupation of first use until the agreed offsite highway works have been delivered.
- 1.3 Your officers consider that this revision to the timing of the delivery of the works required under condition 6 and 10 (as now revised) will still ensure that adequate on site facilities are available for all traffic attracted to the site during the operational phase and to protect the interests of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.

- 1.4 Members will note that the proposed revision to condition 6 does not apply to the site compound and car park. (criteria d) These aspects, and other works, are required to manage the impact of the construction phase and can still be adequately controlled and managed under the terms of Condition 8 which requires a construction management plan to be submitted as follows:

No development shall take place until a Construction Management Scheme has been submitted to and approved in writing by the County Planning Authority. The statement shall provide details of:

- a) Timetable/programme of works
- b) Measures for traffic management [including routing of vehicles to and from the site, details of the number/frequency and sizes of vehicles]
- c) Days and hours of construction and deliveries
- d) Location of loading, unloading and storage of plant and materials
- e) Location of contractor compound and facilities
- f) Provision of boundary fencing/hoarding
- g) Parking of vehicles of site personnel, operatives and visitors.
- h) Wheel washing
- i) Dust control

The development shall be implemented in accordance with the approved scheme.

At the time of writing this report the precise details of the Construction Management plan have not been submitted for approval, but the scope of details to be agreed is comprehensive with criterion B providing flexibility to secure off site initiative in terms of temporary requirements during the construction phase.

- 1.5 Conditions 9 and 14 of the outline planning permission are also drafted as pre-commencement conditions but these conditions relate to Sustainable Urban Drainage (SUDs) details and archaeological monitoring. It is not considered that there is any flexibility in amending the wording of these conditions given the reasons for imposing them.

2..0 Implications of confirming agreement to the managed one way scheme at the junction of the A377 and Station Road which is now proposed to satisfy condition 10.

- 2.1 Members considered the application for the outline application at the Planning Committee meeting on 22 October 2014, and the relevant extracts from the committee report regards the scope of the off-site highway works at the are set out as below (2.1.2 and 2.1.3) The comments reflect the details submitted on drawing 4058 B which is an approved drawing pursuant to the outline planning permission. **Please refer to Appendix A.**

2.1.2 The applicant has indicated in their transport assessment that the junction of Station Road with A377 will run at under capacity and the figures identified would confirm this, however, the Highway Authority has a concern in terms of Highway Safety and forward visibility through the left turn from the A377 into Station Road onto the narrow section of the road. The Highway Authority would wish to see a highway improvement to overcome this concern. In addition when approaching the junction from the West the eye is drawn passed the junction to the highway network further to the east, in particular the junction with West Town Road and signage for the village hall/public car park. A scheme to highlight the junction should also be provided.

- 2.1.3 The Highway Authority is minded to recommend conditions on the application, but would seek an amendment to the application to allow further discussion and negotiation with third party land owners by the applicant to **facilitate the full highway scheme** and with this in mind would consider it appropriate for the access arrangements to be considered as part of the reserved matters application and withdrawn from this application. Alternatively a Grampian Style condition requiring the applicant to submit for written approval and the delivery of a highway junction improvement to the satisfaction of the Local Planning Authority could be imposed.
- 2.2 As part of preliminary design work for the junction works, representatives for the land owner and Highway Authority have established an agreeable scope of works, reflecting on land availability issues and which is different to the scheme indicated on the appendix A plan. This revised scheme is shown on drawing 4058 Rev D (**attached as Appendix B**) as attached at Appendix B. The detail on this plan shows a traffic management arrangement, a widened highway corridor, improvements to visibility splay to the east and additional signage to assist with movements onto and off the highway. As stated above the Highway Authority have confirmed that this revised scope of works is acceptable in terms of managing the impact of the development on the safety and operation of the highway network. These works will be completed as part of the delivery of the project, in addition to improvements to the pedestrian crossing facilities across the A377 that have recently been completed by DCC.
- 2.3 On this basis although a formal submission to discharge the terms of condition 10 has not been made to MDDC, taking into account the comments from the Highway Authority the scheme of works as shown on drawing 4058 Rev D, would satisfy the requirements of Condition 10 in terms of highway safety and capacity considerations.
- 2.4 A number of local residents in Newton St Cyres have contact your officers to confirm that they do not agree that a managed one way system could be acceptable to satisfy the requirements of condition 10, given that the Committee resolved to grant outline planning permission subject to the details as shown on drawing 4058 Rev B (**Appendix A**), and on the comments from Highway Authority as set out in the Committee report (copied at 2.1.2 and 2.1.3 above). Therefore it is suggested that the Committee's decision to grant planning permission would have been on the basis of a two way system being delivered at the junction and not a managed one way system. Furthermore it is alleged that no meaningful discussions have been undertaken regards securing the additional land (currently in private ownership) that would be required to deliver a two way scheme. (refer to appendix A).
- 2.5 With regards to this latter point an agent working for the developers team has advised that early discussions regards securing the additional land have taken place but have not been successful. This is because in order to release it, the current owner has been advised by his land agent that the value should be based on a share of the uplifted value of it given the scope of the planning permission and not based on a compensation level reflective of loss in value plus costs. On this basis the developer's agent advises that this approach would put the whole project at risk from a viability and delivery point of view.
- 2.6 Notwithstanding the comments as referred to at 2.4- 2.5 above, taking into account the advice of the Highway Authority, regarding the acceptability of the proposed managed one way scheme and other works shown on drawing 4058 Rev D (**Appendix B**) in highway safety and capacity terms, it is not considered by your officers that there would be any policy reasons not to support it, and or conclude that it is not development plan policy compliant (COR 9, DM25, DM14).

- 2.7 If Members agree with the officer recommendation on this issue regarding the acceptability of the managed on way system, then when the section 73a application is made to vary the conditions of the outline consent (key issue 1) then a further revision to condition 10 is recommended as set out below:
- 2.8 The first occupation of either the new school building and associated facilities or the new housing shall not take place until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377 as shown on drawing number 4058 rev D hereby approved have been constructed and made available for use.

Contact for any more information

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Background Papers

1401332/MOUT

File Reference

Circulation of the Report

Cllrs Richard Chesterton
Cllr Peter Hare Scott.