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15 January 2024

## PLANNING COMMITTEE

A meeting of the **Planning Committee** will held on **Tuesday, 23rd January, 2024** in the Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

PHIL SHEARS  
Managing Director

Membership: Councillors Atkins, Bradford (Vice-Chair), Bullivant, Goodman-Bradbury, Hall, Hook, MacGregor, Nutley, Nuttall, Palethorpe, C Parker (Chair), Parrott, Purser, Sanders, J Taylor, Williams and Buscombe

Substitutes: Councillors Clarence, Gearon, P Parker, Ryan, Wrigley and D Cox

**Please Note:** The public can view the live streaming of the meeting at [Teignbridge District Council Webcasting \(public-i.tv\)](#) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

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## **Public Access Statement**

### **Information for the Public**

There is an opportunity for members of the public to speak on planning applications at this meeting. Full details are available online at [www.teignbridge.gov.uk/planningcommittee](http://www.teignbridge.gov.uk/planningcommittee).

Please email [democraticservices@teignbridge.gov.uk](mailto:democraticservices@teignbridge.gov.uk) or phone 01626 215112 to request to speak by **12 Noon** two clear working days before the meeting.

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General information about Planning Committee, delegated decisions, dates of future committees, public participation in committees as well as links to agendas and minutes are available at [www.teignbridge.gov.uk/planningcommittee](http://www.teignbridge.gov.uk/planningcommittee)

The Local Plan 2014-2033 is available at <https://www.teignbridge.gov.uk/media/1669/local-plan-2013-33.pdf>

## **A G E N D A**

### **PART I**

**(Open to the Public)**

1. Apologies for absence.
2. Minutes (Pages 5 - 8)  
To confirm the minutes of the last meeting.
3. Declarations of Interest.  
If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting.
4. Public Participation  
The Chairman to advise the Committee on any requests received from members of the public to address the Committee.
5. Chairs' Announcements
6. Planning applications for consideration - to consider applications for planning permission as set out below.

- a) 22/02060/VAR - Old Exeter Street, Chudleigh (Pages 9 - 16)
  - b) 22/02342/FUL - 128 Ashburton Rd - Newton Abbot (Pages 17 - 28)
7. Appeal Decisions - to note appeal decisions made by the Planning Inspectorate.  
(Pages 29 - 30)
8. S73 Major Decisions Summary (Pages 31 - 32)

**For Information - Upcoming Site Visit Dates**

15 February, 14 March, 11 April

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**PLANNING COMMITTEE****14 DECEMBER 2023**Present:

Councillors Bradford (Vice-Chair), Bullivant, Goodman-Bradbury, Hall, Hook, Nutley, Nuttall, Palethorpe, Parrott, Purser, Sanders, J Taylor, Williams and P Parker (Substitute)

Members in Attendance:

Councillors

Apologies:

Councillors Atkins, MacGregor and C Parker

Officers in Attendance:

Artur Gugula, Planning Officer

Sim Manley, Interim Head of Development Management

Christopher Morgan, Trainee Democratic Services Officer

Ian Perry, Principal Planning Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Paul Woodhead, Monitoring Officer

Patrick James, Planning Officer

**72. MINUTES**

It was proposed by Councillor Bradford and seconded by Councillor J Taylor that the minutes of the previous meeting be agreed as a correct record with one edit.

A vote was taken.

Resolved

That the minutes of the previous meeting be agreed as a correct record with one edit.

**73. DECLARATIONS OF INTEREST.**

Councillor Bradford declared an interest in application as part of her groups' history. She stated that she would judge the application on its merits and so would take part in the debate and vote.

**74. 22./1151/MAJ - LANGFORD BRIDGE, NEWTON ABBOT**

## Planning Committee (14.12.2023)

The Planning Officer presented the application to the Committee.

Public Speaker, Supporter 1 – Raised the following:

- The design has been amended to improve development
- The housing is similar to that in Wolborough
- The neighbouring football club has been engaged with
- Provision of new jobs

Public Speaker, Supporter 2 – Raised the following:

- Provision of homes to Teignbridge residents
- Provision of open spaces
- Ecological benefits included on site
- The application has been amended with reduced energy demands
- Provision of ground source heat pumps.

Public Speaker, Objector – Raised the following:

- Concerns about the environmental impact of the site
- National England's acceptance is with multiple conditions
- Lack of powers to address any environmental rule breaking
- Lack of landscape ecology plan
- There is no way to monitor bats on site

Comments from Councillors during the debate included the following:

- Concerns relating to overlooking on a nearby property
- Concerns about lighting from neighbouring football field
- Concerns about the design of dwellings
- The ground source heat pumps are a positive addition
- Devon County is working to prevent parking on pavements
- Concerns about reaching schools or walking into town
- Concerns about the impact of late night events at the football club
- Concerns about flooding on site
- Lack of ecology plan
- Desire for a wider bat corridor
- Mention of NA3 Master Plan
- Suggest of quarterly inspections
- Provision of affordable housing
- More lighting would alleviate any safety concerns
- Is there a registered house provider?
- Concerns surrounding bins and waste
- Residents require social housing provision
- Concerns surrounding bike theft

In response officers clarified the following:

- 23 meters between the existing dwelling and first new dwelling on site
- Environmental health officer said no noise nuisance
- Improved cycle route into town
- County Council is the education authority
- Bat route width and specialist consulted

## Planning Committee (14.12.2023)

- NA3 meetings took place with various attendees
- Quarterly checks carried out
- Bat concerns affected lighting
- No registered house provider
- Waste covered in update sheet
- The provision of social housing is protected by the s106 agreement
- 2 parking spaces next to open space
- Toucan crossing for school access

It was proposed by Councillor Taylor and seconded by Councillor P Parker that permission be refused due to scale reasons. The vote was 3 for, 8 against, and 1 abstained, therefore the vote was lost.

It was proposed by Councillor Bullivant and seconded by Councillor Goodman-Bradbury that permission be granted as set out in the report.

A vote was taken – the result was 8 in favour, 3 against, 1 abstained.

Resolved

That reserved matters approval be granted subject to conditions covering the following matters, the precise number and formation of which to be delegated to the Business Manager Strategic Place, to include:

1. Accordance with the approved plans.
2. No lighting to be installed on site (except for domestic lighting on properties on timers) above that agreed in the approved lighting scheme; further details to be submitted and agreed if this changes. The northern and western dark corridors to be maintained at or below 0.5 lux.
3. Removal of pd/no windows within elevations facing onto the dark corridor
4. Details of the local area of play (LAP) to be provided within this phase.
5. Selected material sample approval, in particular of the external stone to feature in the 2 gateway dwellings.
6. Details of the area surrounding the attenuation pond

NB: The conditions attached to the outline permission, and the obligations secured under the s106 legal agreement remain in force.

### **75. APPEAL DECISIONS - TO NOTE APPEAL DECISIONS MADE BY THE PLANNING INSPECTORATE.**

The Committee noted the appeal decisions made by the Planning Inspectorate.

### **76. S73 MAJOR DECISIONS SUMMARY**

The Major Decisions Summary Sheet was noted by the Committee.

## Planning Committee (14.12.2023)

The meeting started at 10.00 am and finished at 12.00 pm.

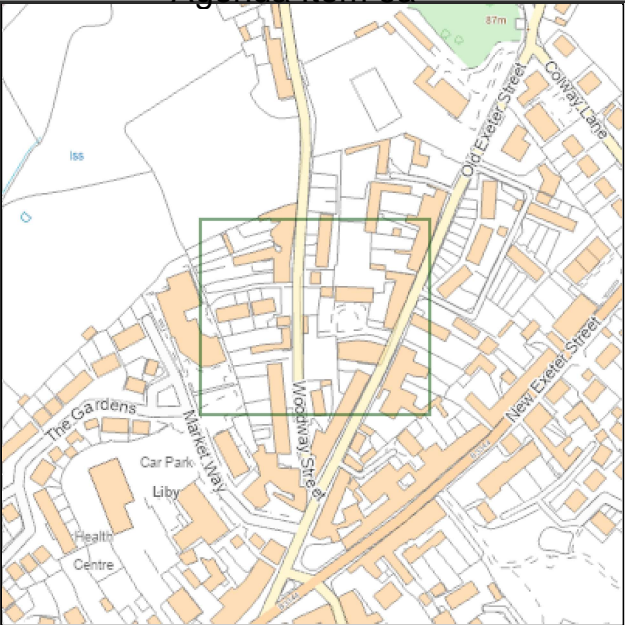
Chair  
Cllr C Parker





Planning Committee Report

Chairman: Cllr Colin Parker



<b>Date</b>	23 January 2024
<b>Case Officer</b>	Niki Warner
<b>Location</b>	49 Old Exeter Street Chudleigh Devon TQ13 0JX
<b>Proposal</b>	Variation of condition 3 on application 19/00994/FUL (Conversion of barn (to be used for storage/parking with ancillary accommodation over) to change the terms of the ancillary use restriction
<b>Applicant</b>	Mr & Mrs M Sanders
<b>Ward</b>	Chudleigh
<b>Member(s)</b>	Cllr Suzanne Sanders, Cllr Richard Keeling
<b>Reference</b>	22/02060/VAR

[Online Details and Documents](#)

**RECOMMENDATION: null**

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## 1. REASON FOR REPORT

This application is reported to Committee because the applicant is a Member of the Council.

## 2. RECOMMENDATION

**Resolution to Approve subject to:**

**i) completion of a S106 agreement drafted with the objective of:**

*ensuring that once this planning permission is granted, the building shall be used only as ancillary floorspace to the new dwelling (as sought through this permission) and no longer to 49 Old Exeter St as previously permitted, and*

**ii) those conditions attached to 19/00994/FUL that continue to apply, and**

**iii) a revised condition replacing condition 3 of original permission 19/00994/FUL worded as follows:**

*The application building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling granted planning permission by planning permissions 20/02181/FUL or 22/02145/VAR (or any Non-Material Amendment made to either permission using Section 96A of the Town and Country Planning Act 1990), and shall not be used, let, leased or otherwise disposed of as a separate unit of accommodation.*

*REASON: In order to restrict the use of the building such that it is not used as a self-contained dwelling without permission.*

## 3. DESCRIPTION

### The Application Site

- 3.1 49 Old Exeter Street is a Grade II Listed Heritage Asset within the Chudleigh Conservation Area with the site described as making an outstanding contribution to the Conservation Area. The site has an extant application for a new dwelling (20/02181/FUL as amended by 22/02145/VAR) within its walled garden. The new dwelling has not yet been built.
- 3.2 This application relates to a curtilage listed barn running along the western boundary within the grounds of 49 Old Exeter Street, that benefits from a permission (19/00994/FUL) to convert the barn to provide ancillary accommodation to 49 Old Exeter Street.
- 3.3 19/00994/FUL granted Planning Permission on 20.11.2020 for development described as: 'Conversion of barn (to be used for storage/parking with ancillary accommodation over)'. The application initially proposed a new dwelling plus conversion of the barn to provide ancillary floorspace, but the house was found unacceptable and was withdrawn from the application proposals. As such, the application site was reduced in size and is limited to the barn itself and a small area of land surrounding it on the west side of the site adjoining Woodway St.

- 3.4 19/00994/FUL was granted subject to seven conditions, including condition 3 which reads:

*3. The application building shall not be occupied at any time other than for purposes ancillary to the residential use of the host dwelling known as 49 Old Exeter Street and shall not be used, let, leased or otherwise disposed of as a separate unit of accommodation.*

*REASON: In accordance with the application submission and as a separate unit of accommodation would be contrary to the Development Plan.*

Proposal:

- 3.3 The application seeks variation of condition 3 on application 19/00994/FUL to change the terms of the ancillary use restriction to be ancillary to the new dwelling (approved but not yet constructed). The application is made under Section 73 of the Town and Country Planning Act 1990 which allows for planning conditions to be removed or varied. In this case, no physical changes to the development are proposed.
- 3.4 In their supporting statement, the applicant's agent proposed amendment of Condition 3 to the following revised wording:

*The application building shall not be occupied at any time other than for purposes ancillary to the residential use of the new dwelling granted under reference 20/02181/Ful or any subsequent amendment and shall not be used, let, leased or otherwise disposed of as a separate unit of accommodation.*

Principle of the development/sustainability

- 3.4 Officers consider the use of the building ancillary to a dwelling at the site to be acceptable. 19/00994/FUL granted permission for use of the building 'for storage/parking with ancillary accommodation over'. The use was to be ancillary to the existing house and this was considered acceptable. Planning permission would not have been required to use the building for car parking, as the building already fell within the curtilage of 49 Old Exeter St and as such uses *incidental* to it do not require permission. Planning permission was only required because external works were proposed, and because the use of the building as *ancillary* accommodation (ie as an annexe including sleeping accommodation) is not considered *incidental*.
- 3.5 The law is such that if approved, this application would give rise to a second planning permission that would sit alongside 19/00994/FUL it. Generally, once variations to a planning permission are granted under Section 73 of the Town and Country Planning Act 1990, multiple planning permissions exist in parallel and the applicant can choose which of those permissions they wish to implement. Once implemented, a permission will generally become 'extant' meaning that it can be carried out at any time even if the date by which it must be commenced has passed.
- 3.6 Condition 1 attached to 19/00994/FUL required the development to begin before the expiry of three years from 20 November 2020, so prior to 20 November 2023. The current application was submitted on 25 October 2022, but the date for implementation passed during the course of the application.

- 3.7 Section 73 of the Act states explicitly that its powers cannot be used to extend the period of time in which a planning permission must be implemented. As such, a 'variation' permission granted by Section 73 must be commenced within the same period as that of the original permission in order to be lawful.
- 3.8 In some circumstances, therefore, it would not be lawful for the applicant to implement a permission granted following the current application.
- 3.9 However in this case the applicant has opted to dig trenches to implement the permission and the LPA understands that this work was commenced prior to 20<sup>th</sup> November 2023. As such, officers consider that 19/00994/FUL could still be lawfully implemented despite the fact that the date of 20<sup>th</sup> November 2023 has passed. A 'variation' permission granted under Section 73, such as a permission which would arise from the approval of this application, could also be implemented lawfully.
- 3.10 Whilst the Local Planning Authority has previously approved the use of the barn as ancillary to the old dwelling, and would similarly find its use ancillary to the new dwelling acceptable, challenges arise in planning terms where its use could be ancillary to either the old dwelling or the new dwelling. This is the situation which would arise from the granting of this planning application as a result of the fact that permission 19/00994/FUL can lawfully be implemented at any time because it has already commenced, and the new permission will also be capable of being lawfully implemented once granted.
- 3.11 To address the challenges arising from this unusual situation, officers advised the applicant to allow the permission 19/00994/FUL to lapse and apply for a new permission tying the barn to the new dwelling. However, the applicant preferred to keep their existing planning permission 'extant' and instead chose to implement it.
- 3.12 The only way to prevent the implementation or reliance upon a planning permission is for the applicant/land owner to enter into a S106 agreement. As a legal agreement entered into under S106 of the TCPA 1990 would become a charge on the land reflected in the title deeds it is the only way to remove a planning permission from the land effectively and robustly.
- 3.13 Whilst a legal agreement under S106 does appear onerous for a minor proposal such as this, and government advice is that planning conditions should be used in preference to a S106 where possible, officers do not consider that a planning condition can address this issue adequately.
- 3.14 Officers consider therefore that a S106 is needed alongside changes to the wording of condition 3. Officers therefore recommend that condition 3 should be reworded as follows:

*The application building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling granted planning permission by planning permissions 20/02181/FUL or 22/02145/VAR (or any Non-Material Amendment made to either permission using Section 96A of the Town and Country Planning Act 1990), and shall not be used, let, leased or otherwise disposed of as a separate unit of accommodation.*

*REASON: In order to restrict the use of the building such that it is not used as a self-contained dwelling without permission.*

- 3.15 In addition, the applicant will be required to enter into a S106 agreement, the purpose of which will be:

*to ensure that once this planning permission is granted, that the building shall be used only as ancillary floorspace to the new dwelling (as sought through this permission) and no longer to 49 Old Exeter St as previously permitted.*

- 3.16 The revised condition proposed is similar to that sought by the applicant but differs in one key way: it does not allow for the building to be used ancillary to 'the new dwelling granted under reference 20/02181/FUL or any subsequent amendment' This is because there is potential for the new dwelling to be significantly revised through Section 73 'variation' applications (particularly in light of recent case law), and in the event of a significantly revised proposal, use of the barn ancillary as proposed may not necessarily be acceptable. However, the condition recommended by officers would allow for more minor amendments to the house made as 'Non-Material Amendments' under S96A.
- 3.17 In addition, a S106 will be needed to transfer the use of the barn from being ancillary to 49 Old Exeter St to being ancillary to the new house (as well as removing the potential for it to be ancillary to either).

#### Conclusion

- 3.16 Whilst the development proposed is seemed acceptable, complexities have arisen as a result of the nature of the original permission, the timing of the variation application, and the request to allow the building to be used ancillary to a building which has not yet been constructed. However, the wording recommended for a revised condition 3, alongside a S106 agreement designed to withdraw permission reference 19/00994/FUL would together address this issue adequately. In accordance with usual practice, other conditions attached to 19/ Other conditions attached to 19/00994/FUL will be reattached, alongside the revised condition 3, and on this basis officers recommend that planning committee approve the application.

## **4. POLICY DOCUMENTS**

- 4.1 Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S21 Villages

WE8 Domestic Extensions, Ancillary Domestic Curtilage Buildings and Boundary Treatments

EN5 Heritage Assets

- 4.2 National Planning Policy Framework

- 4.3 National Planning Practice Guidance

- 4.4 Chudleigh Conservation Area Appraisal

- 4.5 Chudleigh Neighbourhood Plan

## 5. **CONSULTEES**

5.1. No consultation responses sought

## 6. **REPRESENTATIONS**

6.1. 1 representation was received with the following summarised points:

- Assurance sought over there being no future plan to make a vehicle or pedestrian entrance onto the outer wall opening into Woodway Street
- Protection and monitoring sought for the mature trees on the site
- Would like assurances around noise and light pollution from the development

## 7. **TOWN / PARISH COUNCIL'S COMMENTS**

7.1 Councillors considered this application at a meeting of the planning committee on 23 November [2022].

When the original application for the conversion of the barn was submitted councillors considered it imperative that a condition was attached to the consent making the barn ancillary to the main dwelling. Since then the applicant has received consent for the creation of a new dwelling in the grounds of the main house. This application to make the barn ancillary to the new dwelling rather than the main house is acceptable to councillors.

## 8. **PLANNING HISTORY**

**07/00466/PE Residential Development PE RESPONSE SENT**

**15/02339/PE Proposed Dwelling PE RESPONSE SENT**

**18/01014/PE Proposed single dwelling in walled garden of main house and conversion of adjacent barn to provide ancillary accommodation PE RESPONSE SENT**

**19/0994/FUL Conversion of barn (to be used for storage/parking with ancillary accommodation over) PERMISSION GRANTED**

**19/0095/LBC Conversion of barn (to be used for storage/parking with ancillary accommodation over) APPROVED**

**20/02181/FUL Dwelling PERMISSION GRANTED**

**22/00986/VAR Variation of condition 2 on application 20/02181/FUL (dwelling) minor changes to design REFUSED**

**22/00987/VAR Variation of condition 2 and 3 on application 19/00994/FUL (Conversion of barn (to be used for storage/parking with ancillary accommodation**

over)) to include solar panels and change the terms of the ancillary use restriction **WITHDRAWN**

**22/00988/VAR** Variation of condition 2 on planning permission 19/00995/LBC (Conversion of barn to be used for storage/parking with ancillary accommodation over) to vary condition 2 of 19/00995/LBC to substitute drawings to include solar panels and variation of condition 3 of 19/00994/FUL to change the terms of the ancillary use restriction **APPLICATION RETURNED**

**22/01064/LBC** Solar panels and timber steps (in addition to works approved under 19/00995/LBC) **WITHDRAWN**

**22/02145/VAR** Variation of condition 2 on application 20/02181/FUL(dwelling) to amend floor plans and elevation design **APPROVED**

## **9. COMMUNITY INFRASTRUCTURE LEVY**

The development is not liable for CIL because it is less than 100m<sup>2</sup> of new build that does not result in the creation of a dwelling.

## **10. ENVIRONMENTAL IMPACT ASSESSMENT**

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.

## **11. CARBON/CLIMATE IMPACT**

The development is the conversion and preservation of a historic building, with the associated embodied carbon gains.

## **11 HUMAN RIGHTS ACT**

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.

## **Head of Place and Commercial Services**

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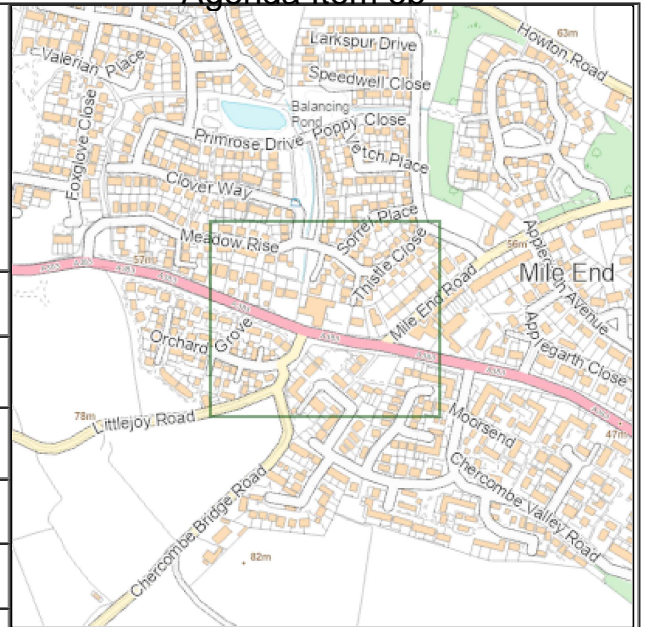




**Planning Committee Report**

**Chairman: Cllr Colin Parker**

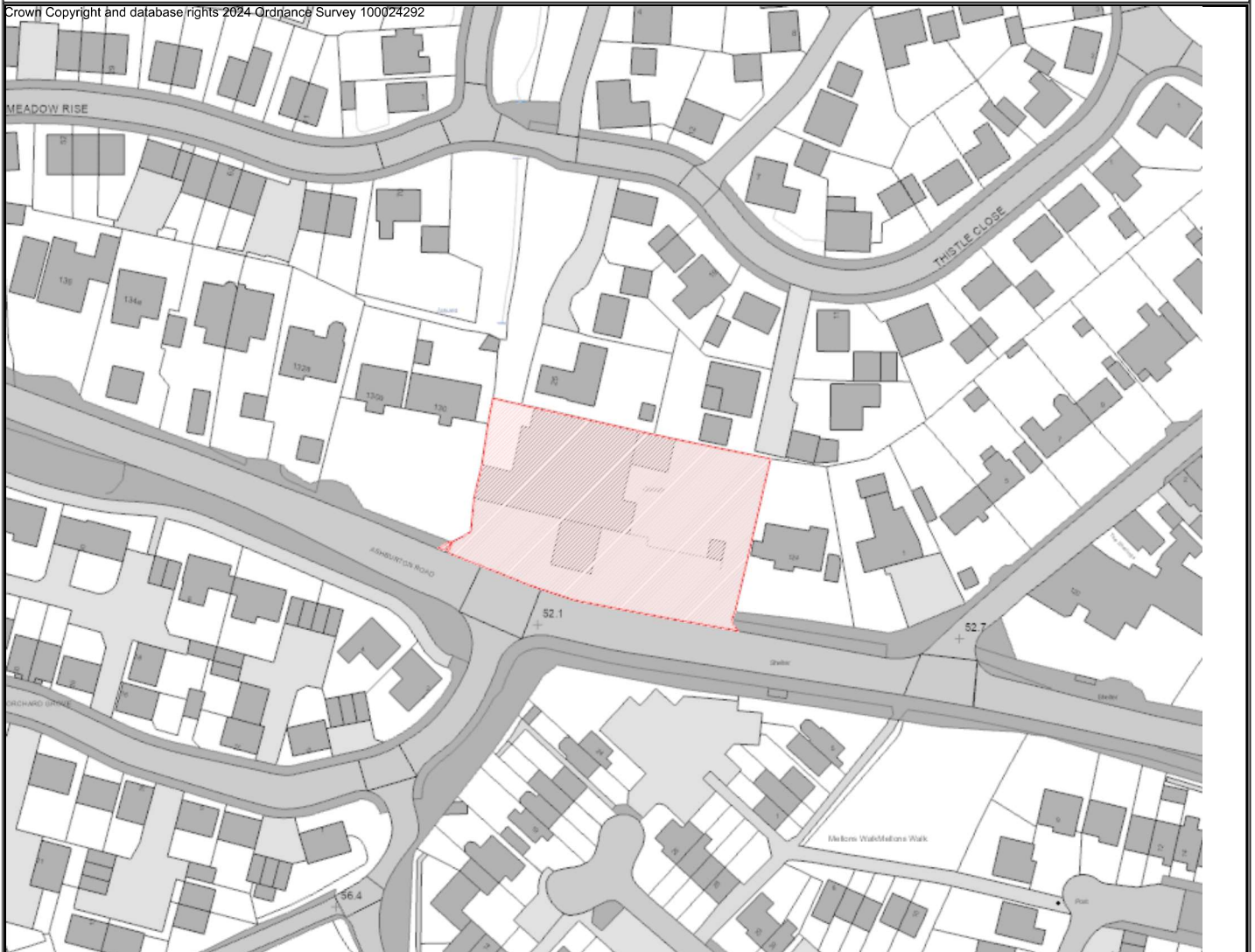
<b>Date</b>	23 January 2024
<b>Case Officer</b>	Clancy Sloan
<b>Location</b>	Pascoe And Gill Garage 128 Ashburton Road Newton Abbot Devon TQ12 1RL
<b>Proposal</b>	Convenience store and associated car parking
<b>Applicant</b>	Mr P Parker & Mr M Barber
<b>Ward</b>	Bradley
<b>Member(s)</b>	Cllr Philip Bullivant, Cllr Richard Buscombe
<b>Reference</b>	22/02342/FUL



[Online Details and Documents](#)

**RECOMMENDATION: null**

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**1. REASON FOR REPORT**

This application is reported to Committee because the applicant is a Member of the Council.

**2. RECOMMENDATION**

**Planning Permission be granted subject to the following conditions:**

1. 3 year time limit condition
2. Compliance with the approved plans/documents

Pre-commencement:

3. Prior to commencement of development details of fuel tanks and decommissioning methodology to remediate the land be submitted to and approved in writing by the Local Planning Authority. (Agreed 12 December 2023)
4. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) will have been submitted to and approved in writing by the Local Planning Authority. (Agreed 12 December 2023)
5. The development shall proceed in accordance with the submitted Surface Water Drainage Assessment produced by Dennis Gedge Consulting Engineer, dated October 2023.

During Construction

6. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Before works above DPM:

7. No development shall take place above damp proof course level until samples of the materials to be used in all external surfaces of the building have first been submitted to and approved in writing by the Local Planning Authority.
8. No development shall take place above damp proof course level until such time as a detailed external lighting scheme for the development (including lighting to the store and within the car park and servicing areas), together with a timetable for its provision, has first been submitted to and approved in writing by the Local Planning Authority.

Prior to first use:

9. Any plant (including ventilation, refrigeration and air conditioning units) or ducting system permission shall be so installed prior to the first use of the premises and be so retained and operated that the noise generated at the boundary of the nearest neighbouring property shall not exceed 5db below the background noise level at the time of operation. Details of the scheme to demonstrate the above shall accord with the noise survey method British Standard: BS 4142:2014 and shall be submitted to and approved in writing by, the Local Planning Authority prior to the commencement of development. (Agreed 12 December 2023)
10. Deliveries shall take place only between the hours of 8.00 am and 7.00 pm, other than those solely delivering newspapers
11. The convenience store, hereby permitted, shall not be brought into use until such time as a delivery management plan (which shall include, but not be limited to, details of the means of ensuring vehicle engines are not left running at the time of deliveries and that vehicle reversing alarms are turned off).
12. The uses at the site shall only be open between the hours of: a) Convenience store: 7.00 am and 11.00pm on any given day. b) Car valeting: Monday to Friday: 9am and 5pm, Saturday 9am and 4pm, and Sunday and bank holidays 9am and 4pm. c) Car servicing garage: Monday to Friday 8am and 5pm, Saturday 8am and 4pm and not at all on Sundays and Bank Holidays.
13. The site access and parking arrangements shall be constructed, laid out and maintained thereafter in accordance with the details on drawing number 19837/203H., including the provision of a one-way system for which appropriate signage shall be provided.
14. The car parking at lower ground floor level (shown on drawing number 19837/203H) shall be constructed and made available prior to first use of the new building, and thereafter shall be used only for the purposes specified on drawing number 19837/203H.
15. Prior to first use of the new building hereby approved the cycle stands shall be provided and available use and shall be retained thereafter.
16. The retail sales area of the mixed-use (Sui Generis) of the application site hereby approved shall be limited to the floor space shown on drawing number 19837/202c (204.2 sq m).

### **3. DESCRIPTION**

#### The Application Site

- 3.1. The subject site refers to "Pascoe and Gill" garage which fronts onto Ashburton Road. The site currently accommodates a car washing facility at the front of the site and car sales. The site has a long frontage with bollard and low height chain linked fence with access point to far west, centre and east of site.

- 3.2. There is centrally located within the site a two storey building with a flat roof and a single storey projection in a westerly direction which provides for a valet area and office. On the eastern side of the site is an access which drops in a northerly direction to provide a rear access and parking area, leading to an MOT servicing area set at lower ground floor level.
- 3.3. The site is surrounded by residential properties inclusive of Ashburton Road, Mile End Road, Hele Park and Orchard Grove. The nearest property along Orchard Grove from the boundary of the subject site is approximately 22m to the south. There is a detached bungalow located to the east of the site, which is separated by the internal access driveway.

#### Proposal

- 3.4. This application seeks planning permission for a Convenience store and associated car parking.
- 3.5. A previous application for a convenience store and parking was approved in January 2020 by Planning Committee (Application ref: 19/01005/FUL). The proposal was for the construction of a new local convenience store with the retention / reorganisation of the car valet and vehicle servicing businesses. The newly constructed elements would be flat roofed and would measure around 23m in width with a depth of around 11 metres and height of around 4m with a false raised roof to mirror the western side of the building. It would be clad on its north and eastern elevations, and the lower ground floor would comprise parking and storage area, with the existing central access closed.
- 3.6. Works associated with this approval do not appear to have ever commenced. This application seeks the renewal of the extant approval for a convenience store. The submitted plans are the same as the previously approved plans, and no revisions to the approved plans are proposed.

#### Site History

- 3.7. 91/0917/01/4 – Part COU from showroom to retail shop with alterations – FCA 8 July 1991 – (no car wash appears of the plans)
- 3.8. 92/0864/01/3 – Service station with ancillary retail shop, food sales, repair/MOT bay and car wash – FCA 8 December 1992
- 3.9. 93/0909/01/3 – Amended application for re-development of garage including shop, car wash, sale of food etc. FCA 18 June 1993
- 3.10. 03/2338/01/4 – COU from petrol filling station and shop to car show room and display with officers – FCA 20 June 03 (Now jet washes are on site, in different area to hand car wash approved 93 and 92.
- 3.11. 11/02274/FUL - Change of use from car showroom and display with ancillary offices and accommodation to car showroom and display with ancillary offices and accommodation and hand car wash facility – Approved
- 3.12. 17/01575/VAR - Variation of condition 2 on planning permission 11/02274/FUL (Change of use from car showroom and display with ancillary offices and accommodation to car showroom and display with ancillary offices and

accommodation and hand car wash facility) to change opening hours to Monday - Saturday 8am - 6pm and Sunday 9am - 5pm – Refused

- 3.13. 19/01005/FUL - Construction of convenience store and associated parking areas - Approved

Principle of the development/sustainability

- 3.14. The site is within the settlement boundary of Newton Abbot whereby policy S21A settlement limits of the Local Plan will apply. This states that within the settlement limit development will be permitted where it is consistent with the provisions and policies of the local plan.
- 3.15. Policy EC2 states that to maintain a range of suitable and available sites and buildings for employment the development of business, general industrial and storage and distribution land for another use will not be permitted unless certain criteria applies.
- 3.16. In this case the site is currently partially occupied by a mixed use including a car sales business, which is a sui generis use. It would not therefore fall within a B1 (now Class E), B2 (General Industrial) or B8 (Storage and Distribution) use class.
- 3.17. Policy EC6 states that new shops of more than 280 square meters sales floor area, or extensions to existing shops which will increase their size to more than 280 square meters will not be permitted outside defined primary shopping areas unless particular criteria apply including adopting the sequential approach.
- 3.18. The proposed sales area for the new shop would be 204.2 sqm. Policy EC10 (Local Shops) states that to provide residents day to day needs within walking distance, new shops with no more than 280 square metres floor area will be acceptable in principle within or adjoining defined settlements.
- 3.19. Paragraph 87 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan, with Town Centres being the sequentially preferable location. Although this site is within the settlement, it is not in the town centre and is some distance from other designated centres. However, as set out above, Local Plan policy EC10 supports new shops with no more than 280 square metres sales floor area. It does so in order 'to provide residents' day-to-day shopping needs'. In light of this, and given that permission has previously been granted for a similar retail unit on this site, it is not considered necessary to undertake a formal sequential test. The proposal is considered to comply with policy EC10 of the Plan and is acceptable in principle in this location.
- 3.20. The overall floorspace of the proposal is considerably higher than this, due to the unique characteristics of this site which means the proposal is set to be delivered over two levels and is therefore larger than might otherwise be the case to take account of undercroft parking areas as well as lifts and goods handling spaces. This is not considered to be sufficiently material to the proposal such that the sequential assessment would need to be undertaken. A condition has been applied to limit the sales area at the site to that shown on the approved plan which will in any event help to keep the proposed use at an appropriate scale for this location. An additional condition is also proposed to require the parking uses at

lower ground floor to be delivered and be retained as such to ensure that sufficient staff parking is maintained and to prevent their use for alternative purposes.

- 3.21. The proposal is therefore located within a settlement boundary, would not represent the loss of an employment site as specified within policy EC2 and would not require the sequential test to be completed. Policy EC10 is supportive of such proposals, and it is therefore considered that the principle of development is acceptable.

#### Impact upon the character and visual amenity of the area

- 3.22. The revised design is a largely flat roofed but includes a false pitch. It is considered that the lower of the height of the roof minimises the impacts of its visual appearance to tie in with the western wing of the site. Flat roof convenience stores are not unusual, and suitable articulation has been added to the front through windows and doors that the building is legible within the streetscene. It would mirror the flat roof element on the other side of the building and be separated by the two storey element. The maximum height of the convenience store would be set below the level of the bungalow to the east and would not therefore appear disproportionate in size.
- 3.23. Whilst there would still be some bulk on the eastern elevation, it would be set back from the road and would be clad with weather boarding. From the rear, the proposal would be read in conjunction with the existing built form. As per the previously approved scheme, it is not therefore considered that there is an objection raised in visual / design terms to the proposal.

#### Impact on residential amenity of surrounding properties

- 3.24. The proposal would be a single storey. Whilst elevated to the residential properties to the rear, only one window is proposed on this elevation and this would serve a stairwell. It is noted that there is a detached garage on the nearest property to the north and substantial screening along the boundary. Given these intervening features it is not considered the proposal would cause any adverse overlooking.
- 3.25. Although slightly elevated, in light of the separation between the properties to the north and the relatively modest scale of the proposal it is not considered the proposed building would cause any undue overbearing impacts to these properties.
- 3.26. In terms of impact on the bungalow to the east, the proposed shop would be sited so as to be level in the plot with the bungalow. No windows are proposed on the side that would cause any overlooking concerns. Its height would be set below the ridge of the bungalow and would not cause significant overbearing impact. The depth of the proposal would not extend significantly beyond the rear of the bungalow. Although the site does drop in a northerly direction, there is an intervening road which separates the site from the neighbour. Given the height and separation it is not considered that an objection could be raised to overbearing impact.
- 3.27. Concerns have been raised about potential noise impacts on nearby properties. The Environmental Health Officer has reviewed the application materials, and concurs with the comments previously provided for the previous approval. It is recommended to repeat the previous conditions in relation to a Construction

Management Plan, plant noise, use limits, external lighting, delivery times, and operating times. It is considered that the recommended conditions are reasonable and suitable to adequately preserve residential amenity of nearby properties.

- 3.28. The proposal therefore complies with Policy S1(d)(e) of the Local Plan.

#### Highway Safety

- 3.29. The proposal will remove the existing central access, and utilise a single entrance and exit which would operate as a one way system. Suitable visibility splays have been shown on the drawings.
- 3.30. Sufficient parking and loading facilities have been provided. The Highways Authority advises that they have no objection to the proposal, as the relevant highways issues were resolved in previous discussions regarding application 19/01005/FUL.
- 3.31. Although no conditions have been recommended by the HA, it is considered by officers that a condition be attached to any permission to ensure the central existing access is closed in the interests of highway safety. A further condition is proposed to secure that the parking and servicing areas are laid out as shown on approved drawing 19837/203H, including the provision of signage to clarify the one-way access arrangements to customers.
- 3.32. Policy NANDP4 of the Newton Abbot Neighbourhood Plan states that '*Where possible, new residential, industrial, commercial and retail developments will be required to provide cycle facilities for residents, employees and customers...*'. Provision of outdoor cycle storage for 4 bicycles is made within the site and a condition is recommended to ensure that it is provided.

#### Drainage

- 3.33. A detailed Drainage Assessment has been provided in support of the proposal. It is proposed that the surface water drainage of the car park area (73m<sup>2</sup>) will be managed by a soakaway on the site. For the proposed store roof and an area of the forecourt (726m<sup>2</sup>), an attenuated flow system to discharge back to the existing surface water connection to the Devon County Highways Sewer is proposed.
- 3.34. The applicant is proposing to connect an attenuated discharge back to the existing surface water connection to the Devon County Highways Sewer. Devon County Highways have confirmed that they are agreeable to the discharge rate from the proposed development, and the design provides a betterment to the existing situation.
- 3.35. The Council's Drainage Officer has reviewed the submitted materials, and agrees that the proposed attenuation structure will provide significant betterment over the existing drainage provision. Officers agree, and the proposed surface water drainage for the development is considered acceptable, provided that it is provided and maintained in accordance with the submitted Drainage Assessment. A condition is recommended to ensure compliance with the submitted Surface Water Drainage Assessment.

### Contaminated Land

- 3.36. As part of the previous application, the Contaminated Land Officer queried whether the underground fuel tanks have been removed. It was then confirmed by the applicant that there are 4 underground fuel tanks on site that have not been decommissioned. At the time, the contaminated land officer confirmed that a condition should be attached to confirm the location of the tanks and provide a decommissioning methodology, and further, confirmation that the works have been completed. It is recommended that this condition be re-applied to any new approval given.
- 3.37. With regards to this application, the Contaminated Land Officer confirmed that a further unsuspected contamination condition is recommended. Subject to these conditions being attached there are no objections raised in this regard.

### Other Matters

- 3.38. Concerns have been raised regarding anti-social behaviour and waste. There is other legislation to cover anti-social behaviour. No objections have been raised by the Waste team and it is not therefore considered reasonable that conditions should cover these issues.
- 3.39. It is considered that the implementation of this planning permission would represent the commencement of a new chapter in the planning history of the site. Conditions attached to this permission are therefore considered to apply to the whole site. This is consistent with the previous approval at the site for the same scheme.
- 3.40. The recommended conditions are primarily the same as the previous approval (19/01005/FUL) with minor changes to reflect new drawing numbers a new surface water drainage assessment, and the need to ensure that the parking and servicing area is laid out as intended.

## **4. POLICY DOCUMENTS**

### 4.1. Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S9 Sustainable Transport

S10 Transport Networks

S13 Town Centres

S14 Newton Abbot

S21A Settlement Limits



S23 Neighbourhood Plans

EC1 Business Development

EC2 Loss of Employment Sites

EC10 Local Shops

EN4 Flood Risk

EN7 Contaminated Land

EN12 Woodlands, Trees and Hedgerows

4.2. Newton Abbot Neighbourhood Plan

4.3. National Planning Policy Framework

4.4. National Planning Practice Guidance

## 5. **CONSULTEES**

### **Contaminated Land Officer**

5.1. Received 30 August 2023:

I refer to the above application and request the following condition.

Unsuspected contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to, and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Development shall not thereafter proceed unless in strict accordance with the measures identified in the approved remediation strategy and verification plan. Prior to occupation to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason To ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

### **Drainage Officer**

5.2. Received 11 May 2023:

Although there is no in-principal objection to the proposed drainage strategy, the application should provide some additional details.

The applicant is proposing to connect an attenuated discharge back to the existing surface water connection to the Devon County Highways Sewer (as shown on the submitted sewer plan). It is noted that betterment will be achieved over the existing connection however, DCC should confirm their acceptance of a revised discharge rate.

It is noted that the proposed attenuation structure will provide significant betterment over the existing drainage provision however calculations should be provided to demonstrate correct sizing of this feature.

It appears that infiltration devices may be possible to drain the rear of the proposed development, however it is not clear the depth at which this soakaway will sit, in proximity to the properties to the rear of the car port and whether there is likely to be any re-emergence from the proposed soakaway. It is noted that the area is subject to variable ground conditions together with the presence of land drains as evident in the trial pit information. The calculations should also be updated to reflect changes in climate change allowance changes since the previous application.

Although exceedance flows are discussed, these should be shown on the plan with a reference to ground levels, it may be necessary to consider boundary treatments to the rear of the site to contain flows.

5.3. Received 31 October 2023:

I refer to the above application and can advise as follows:

The development shall proceed in accordance with the submitted Surface Water Drainage Assessment produced by Dennis Gedge Consulting Engineer, dated October 2023.

**Devon County Highways**

5.4. Received 7 March 2023:

The application appears to be a resubmission of that approved under reference 19/01005/FUL. As such the Highway Authority has no objections to the proposal.

5.5. Email Received 24 May 2023:

I have discussed this with Tracy and am happy with the discharge rate. Overall the design provides a betterment to the existing situation.

**Environmental Health**

5.6. Received 18 May 2023:

I refer to the above application and can advise as follows:

I concur with the previous comments made by Michael Wootton in June 2019.

**Waste**

5.7. Received 10 March 2023:

I do not have any comments to make with regards to this supplication as it does not have an effect of the waste and recycling service as we don't provide commercial waste service.

## **6. REPRESENTATIONS**

- 6.1. One letter of representation has been received. The issues raised relate to:
- Concerns whether another convenience store is needed on Ashburton Road.
  - Overlooking/loss of privacy/overbearing.
  - Concerns about anti-social behavior.
  - Concerns that customers may decide to park on grass verge instead of using carpark.
  - Concerns about noise and disturbance from both the customers and delivery vehicles.

## **7. TOWN / PARISH COUNCIL'S COMMENTS**

### **7.1. Newton Abbot Town Council**

No Objection.

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 393.82m<sup>2</sup>. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 19.42m<sup>2</sup>. The CIL liability for this development is £83,417.57. This is based on 374.4 net m<sup>2</sup> at £150 per m<sup>2</sup> and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

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.

## **11 HUMAN RIGHTS ACT**

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.

## **Head of Place and Commercial Services**

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TEIGNBRIDGE COUNCIL DISTRICT

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Colin Parker

<b>DATE:</b>	<b>23 January 2024</b>
<b>REPORT OF:</b>	<b>Business Manager – Strategic Place</b>
<b>SUBJECT:</b>	<b>Appeal Decisions received during previous calendar month</b>

**23/00033/REF**      **DODDISCOMBSLEIGH** - Little Park Farm Doddiscombsleigh  
 Appeal against the refusal of 21/01073/FUL: Retention of mobile  
 home for use as tourist accommodation

Appeal Dismissed. Delegated Decision

**23/00039/REF**      **NEWTON ABBOT** - Garage Block Rear Of 2 - 14 Audley Rise  
 Appeal against the refusal of 23/00726/FUL: Garage and store  
 area

Appeal Allowed. Delegated Decision

**PLEASE NOTE THAT THE FULL TEXT OF THESE APPEAL DECISIONS IS  
 AVAILABLE ON THE COUNCIL'S WEBSITE**

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TEIGNBRIDGE COUNCIL DISTRICT

**PLANNING COMMITTEE**

**CHAIRMAN: Cllr Colin Parker**

<b>DATE:</b>	<b>23 January 2024</b>
<b>REPORT OF:</b>	<b>Business Manager – Strategic Place</b>
<b>SUBJECT:</b>	<b>Major variation applications approved in previous calendar month</b>

None in December 2023

**PLEASE NOTE THAT THE FULL TEXT OF THESE DECISIONS IS AVAILABLE ON  
THE COUNCIL'S WEBSITE**

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