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11 March 2024

PLANNING COMMITTEE

A meeting of the **Planning Committee** will held on **Tuesday, 19th March, 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

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Public Access Statement

Information for the Public

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Please email 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

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 - 6)
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) 22/01597/FUL - Alexandra Cinema, Newton Abbot (Pages 7 - 28)
- b) 22/01598/LBC - Alexandra Cinema, Newton Abbot (Pages 29 - 46)
- c) 22/02069/MAJ - Wolborough Barton, Newton Abbot (Pages 47 - 68)
- d) 23/01439/FUL - Longlands Barns, Kingskerswell (Pages 69 - 74)

7. Enforcement Cases

- a) 22/00127ENF - Hawthorn House, Newton Abbot (Pages 75 - 78)
- b) 17/00006/ENF - Lower Colleybrook Farm, Ideford (Pages 79 - 84)

8. Appeal Decisions - to note appeal decisions made by the Planning Inspectorate.
(Pages 85 - 86)

9. S73 Major Decisions Summary (Pages 87 - 88)

For Information - Upcoming Site Visit Dates

11 April, 9 May, 6 June

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PLANNING COMMITTEE

20 FEBRUARY 2024

Present:

Councillors Atkins, Bradford (Vice-Chair), Bullivant, Hall, Hook, MacGregor, Nutley, Palethorpe, C Parker (Chair), Parrott, Sanders, J Taylor and Williams

Apologies:

Councillors Goodman-Bradbury, Nuttall and Purser

Officers in Attendance:

Trish Corns, Democratic Services Officer

Paul Woodhead, Head of Legal Services & Monitoring Officer to the Council

Sim Manley, Interim Head of Development Management

Anna Holloway, Principal Planning Officer

Christopher Morgan, Trainee Democratic Services Officer

81. MINUTES

It was proposed by Councillor C Parker and seconded by Councillor Nutley that the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

A vote was taken.

Resolved

That the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

a) 23/00936/MAJ Matford Home Farm - Substation

It was proposed by Councillor C Parker and seconded by Councillor Bradford that because of additional time needed to consider lengthy and complex late information received from the applicant, decision be deferred to a future meeting.

A vote was taken – the result was unanimously in favour.

Resolved that decision be deferred to a future meeting.

82. APPEAL DECISIONS - TO NOTE APPEAL DECISIONS MADE BY THE PLANNING INSPECTORATE.

Planning Committee (20.2.2024)

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

83. S73 MAJOR DECISIONS SUMMARY

The Major Decisions Summary sheet was noted by the Committee

The meeting started at 10.00 am and finished at 10.10 am.

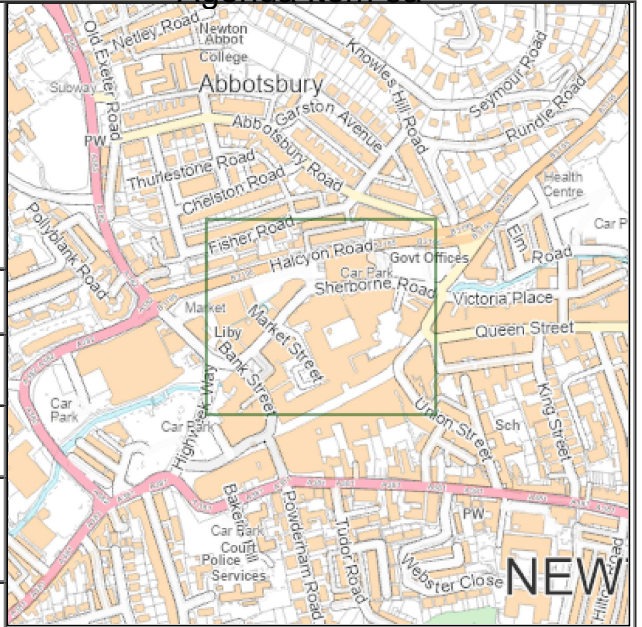
Chair
Cllr C Parker



Planning Committee Report

Chairman: Cllr Colin Parker

Date	19 March 2024
Case Officer	Jennifer Joule
Location	Alexandra Cinema Market Street Newton Abbot Devon TQ12 2RB
Proposal	Restoration of single theatre auditorium, atrium extension to the south and associated alterations
Applicant	The Alexandra Theatre CBS
Ward	Bushell
Member(s)	Cllr Rob Hayes, Cllr Jackie Hook
Reference	22/01597/FUL



[Online Details and Documents](#)

RECOMMENDATION: PERMISSION REFUSED

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1. REASON FOR REPORT

A Trustee of The Alexandra Theatre Newton Abbot Charitable Community Benefit Society (the applicant) is also a Council Member.

2. RECOMMENDATION

Permission be refused for the following reasons:

1. The proposed atrium-style southern extension constitutes less than substantial harm to the significance of the grade II listed Alexandra Theatre as a result of its large bulk and form, which would unbalance the symmetry of the building and be overwhelming to the existing relatively modest structure. There are not considered to be clear and convincing public benefits to provide the justification necessary for such harm to be permitted, as there is no clear case for the extension's need, nor evidence that alternative provision could not be pursued elsewhere. The proposal is therefore considered to conflict with Policy EN5 of the adopted Teignbridge Local Plan 2013-2033 as well as paragraphs 205, 206 and 207 of the National Planning Policy Framework (NPPF) 2023.
2. The formation of a new permanent loading bay off Sherborne Road is considered an unnecessary change in light of the existing loading area to the south of the building. It would represent poor urban design to remove an existing and attractive area of hard and soft landscaping when anticipated use of the bay is for relatively few days a year. The proposal is therefore considered contrary to the principles of sustainable and quality development set out at Policies S1 and S2 of the adopted Teignbridge Local Plan 2013-2033, notably the need to make effective use of land, design spaces which are attractive, and ensure highway requirements do not dominate a site's appearance and function.

3. DESCRIPTION

Site Description

- 3.1. The Alexandra Theatre is located within the centre of Newton Abbot. It forms the western part of the Market Hall building to the immediate south of Market Street and Sherborne Road.
- 3.2. The key planning constraints of relevance to the site and proposal are as follows:
 - The Alexandra Theatre is a grade II listed building;
 - It is located in close proximity to other grade II listed buildings, notably those along Market Street;
 - It is located above the culverted underground River Lemon and within Flood Zone 3, meaning it is at the highest risk of flooding;
 - Also at high risk of surface water flooding;
 - Within an Air Quality Management Area;
 - Within the designated Town Centre for Newton Abbot; and,

- Within the South Hams Special Area of Conservation (SAC) Greater Horseshoe Bat Landscape Connectivity Zone.

- 3.3. The building was originally constructed in the late 1860s under the architect John Chudleigh. It was constructed together with the Market Hall in locally-dressed limestone in the Italianate style. The west end of the building was originally occupied as a corn exchange but soon after completion it became a public hall, opened in 1871. In 1883 a stage was installed.
- 3.4. The Theatre's balcony level was added in the 1920s to facilitate the growing demand for films. The rendered brick extensions to the front elevation were added at this time and allowed space for a new staircase access to the balcony level and access to the new projection room. This second tier of seating was 'boxed-in' in 1998 to form the second cinema screen.
- 3.5. Since the 1970s, a cinema has occupied the building alongside use by local theatre and performance groups, including the applicants for this proposal.
- 3.6. The building was listed at grade II in 1972.
- 3.7. The Local Planning Authority understands that the terms of the lease with the Council, the land owner, currently permit only three weeks of theatre use per year. For the rest of the year the building is in use as a cinema.

Relevant Planning History

- 3.8. 95/03185/LBC - Build sound-proof internal wall to form 2nd auditorium & convert pt of foyer to project – Approved 1996
- 3.9. 22/01129/MAJ and 22/01130/LBC - Demolition of existing buildings, erection of four screen cinema building on upper levels with two Class E(a, b) units on the ground floor, associated ancillary accommodation and external works – Withdrawn
- 3.10. Linked application for listed building consent:

22/01598/LBC Restoration of single theatre auditorium, atrium extension to the south and associated alterations – Under consideration

Proposed Development

- 3.11. There are two main elements to the proposals:
 - Restore a single theatre/auditorium space within the existing two-screen cinema/theatre; and,
 - Build an atrium-style extension to the southern side of the building for use as a bar/café.

Other elements include:

- Removal of mature tree to southern side of building;
- Realignment of pavement to southern side of building to accommodate extension;

- Installation of new loading bay to northern side of building in place of existing landscaping;
- Planting of two fastigate trees within the pavement to the northern side of the building; and,
- Installation of ten additional cycle parking spaces adjacent to the new loading bay.

It should be noted that there are further proposed internal works which would not require planning permission but would require listed building consent. These changes are considered under the linked listed building consent application ref. 22/01598/LBC.

- 3.12. The applicant has amended the scheme during the determination period. When originally submitted, the proposal related to the full extent of the listed building and included changes to the Market Hall. The red line of the application site was subsequently reduced to comprise only the Theatre and revised drawings were supplied.

Heritage Impact

- 3.13. In coming to this decision the Council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.
- 3.14. The significance of the Alexandra Theatre is considered to derive from its design, decoration and craftsmanship. It was and still is an important civic building and part of the Market Square. It is a good example of late 19th Neo-classical architecture in the Italianate style. It has a pure but simple form, with a series of arched window features. Its simple form and massing are part of its significance.
- 3.15. The Conservation Officer does not raise concern with the internal changes, namely the proposed single auditorium/theatre space including the restoration of the second seating tier and associated works. Officers support these changes as they will reinstate the 1920s works to enlarge the capacity of the theatre. It is expected that the original balcony remains in place and can be restored through the proposal. Furthermore, the changes to allow disabled access are welcomed. The internal works are therefore not considered to amount to harm to the asset.
- 3.16. The Conservation Officer has set out that the proposed southern extension amounts to substantial harm to the significance of the asset. Substantial harm is an unusually high degree of harm. Harm occurs on a spectrum, but the NPPF specifically provides two categories of harm which Local Planning Authorities should use: 'less than substantial' and 'substantial', with policy flowing on from a conclusion of either category of harm. Planning Officers have reviewed the Conservation Officer's comments as well as those from external advisory bodies and consider that the proposal amounts to harm which occurs at the higher end of the less than substantial category.
- 3.17. The Conservation Officer has advised that the harm arises in this case from the southern atrium extension. This harm derives from:

- The atrium extension will remove a fundamental component of the original design: the symmetry of the building;
- The atrium will cocoon the original elevation of the host building and the large new roof form will prevent an understanding of the original listed structure;
- The simple form and massing of the building will be lost, overwhelming the existing relatively modest structure; and,
- The atrium extension will partially remove the historic fabric of the semi-circular arched windows on the southern elevation, both an irreplaceable resource and an important feature of the original 1871 design.

3.18. Planning Officers agree with this assessment of harm but consider the overall impact of the extension is less than substantially harmful due to the glazed nature of the proposed atrium elevations, which will continue to allow views of the listed fabric enclosed within the extension. Furthermore, whilst the roof form is unduly large and bulky, the building will primarily be experienced from ground floor level where the roof form would not be viewed head on.

3.19. The changes to the building are shown on the proposed elevation drawings as follows:

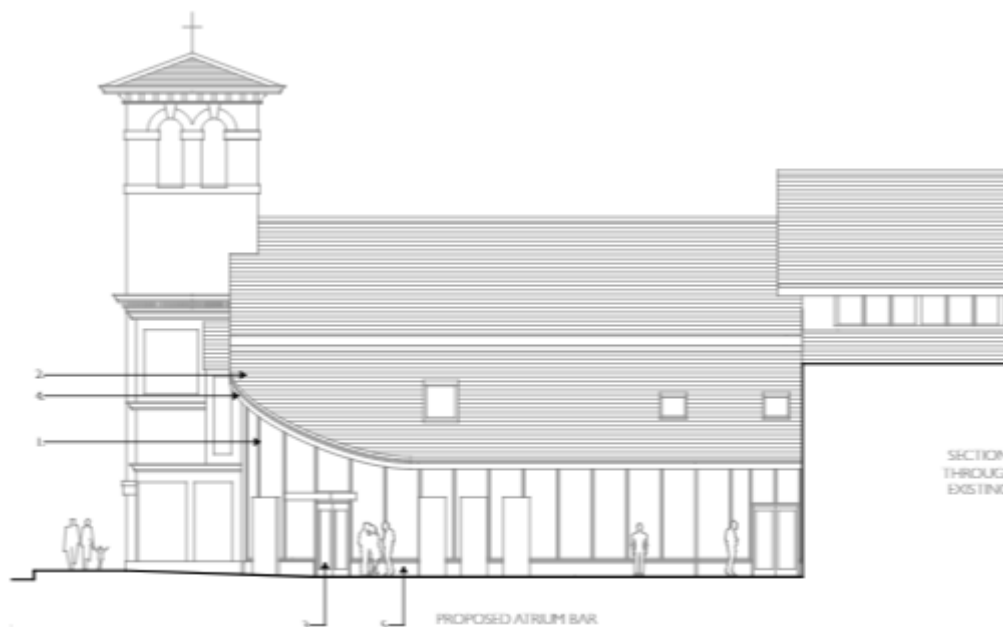


Figure 1: Extract of the proposed southern elevation drawing ref. 22.20_PL_201 REV.C



Figure 2: Extract of the existing southern elevation drawing ref. 22.20_PL_007 REV.C

- 3.20. In their consultation responses both the Victorian Society and the Theatres Trust have raised concern with the design atrium extension and consider it amounts to less than substantial harm to the significance of the building. The Theatres Trust suggested an amendment to alter the roof pitch such that it would better preserve the symmetry of the building.
- 3.21. The NPPF (2023) advises that ‘great weight’ should be given by the decision maker to any heritage asset’s conservation.
- 3.22. In cases of harm, paragraph 206 of the NPPF requires that: ‘any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.’
- 3.23. Paragraph 208 provides further policy on how decision makers should act where less than substantial harm is identified:

208. 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, where appropriate, securing its optimum viable use.

An assessment of public benefits is undertaken below.

- 3.24. Policy EN5 of the adopted Teignbridge Local Plan requires that proposals ‘protect and enhance the area’s heritage...take account of the significance’ of any affected heritage asset. This proposal is considered to conflict with this Local Plan Policy because it will obscure and reduce understanding of the significance of the asset.

- 3.25. For the same reasons as those identified above, the proposal is considered to conflict with emerging Policy EN17: Heritage Assets, which would be given limited weight at this time.
- 3.26. There are other grade II listed buildings located along Market Street: the Adult Education Centre and Library, the Liberal Club, 7 Market Street and 9 and 11 Market Street. This proposal could be considered to fall within the settings of these buildings. However, the Conservation Officer has not identified any harm would arise to these buildings, and the location of the body of works to the southern side of the Alexandra Theatre will largely obscure views of the extension from these listed buildings. Therefore, it is considered that the proposal would have a neutral impact on their significance.

The Public Benefit Argument

- 3.27. Given the NPPF makes provision for the decision maker to allow less than substantial harm to occur to listed buildings in some circumstances, it is necessary to consider if such circumstances, or clear and convincing justification, is available in the case of this application.
- 3.28. Given the importance of this justification to the likelihood of a recommendation of approval, the applicant was provided with an opportunity to set out this justification to the Local Planning Authority. The applicant's agent provided an email dated 28th July 2023 and a further statement in January 2024 which sought to justify the extension.
- 3.29. The key arguments presented by the applicant and agent are considered as follows. The first is that the southern extension is critical to support the commercial viability of the Theatre and enhance its overall offering to members of the public. It is stated that there is insufficient space in the foyer within the existing listed building to provide a revenue-generating facility and therefore an extension must be built.
- 3.30. Officers understand that a café and/or bar is often a feature of a theatre and consider it likely that the revenue of such a facility is a helpful supplement to ticket sales. However, no such case has been put forward by the applicants. There has been no assessment of anticipated revenue, no business case, no information on costings, financing or anticipated use arrangements. Whilst in a hypothetical scenario a café and bar would likely assist with revenue generation, there is no information supplied with this application to demonstrate that such an additional facility is necessary in this case. Given the high degree of harm arising from the extension, the Local Planning Authority would expect a detailed business case to provide the justification. For example, one would expect an argument to be made that the restoration to a single theatre (the main benefit of the scheme) was only possible if additional revenue streams were pursued, and hence the project would not continue without the southern extension's floorspace. Unfortunately, the application lacks this detail.
- 3.31. In the meantime, the proposal relies on general statements that the café/bar will provide an important source of income, whilst failing to justify that such an income stream would be necessary. The overall deliverability of the scheme is brought in to question as a result of the seeming lack of any detailed financial planning. If such justification had been provided, Officers may have been in a position to consider that there were sufficient public benefits arising from the scheme.

3.32. The proposed floor plan (extract below) shows two entrance spaces: a foyer within the existing scope of the building, and the new bar and café to the south. The role and function of the foyer is unclear, it could be circulation space or could be used for sales, but this has not been clarified. The necessity of the atrium extension remains unclear until all other options have been considered.

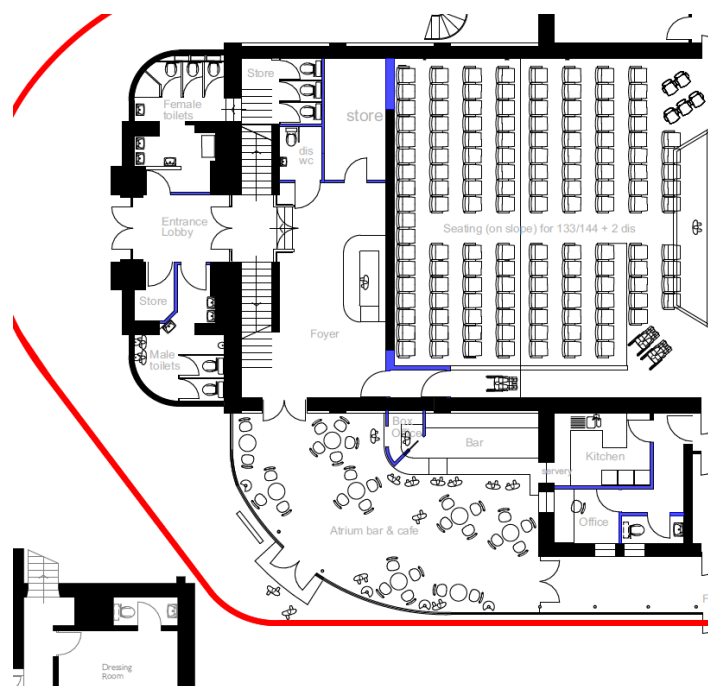


Figure 3: extract of the Proposed Ground Floor Plan ref. 22.20_PL100 REV C

3.33. Furthermore, taking in to account the land ownership of the site, and the Council's land holding in the town centre, which includes the wider Market Hall and Market Square, it is not clear that a bar/café space would need to be sited directly to the south of the new theatre to cross-subsidise the theatre space. If a café/bar was instead installed within the Market Hall itself (incidentally these proposals are under early consideration by the Council under the Future High Streets Fund), it could still provide synergies and cross-subsidisation of the theatre use.

3.34. Paragraph 207 of the NPPF sets out that consideration be given to conservation by grant-funding or through the use of some form of not for profit, charitable or public ownership. There is no evidence the applicants have pursued these routes to funding the restoration of the theatre without the southern extension. The Council has demonstrated, for example, that it is able to source central government funding, such as from the Future High Streets Fund. It is possible that the Council could obtain funding for restoration to a single theatre space without the need for the atrium extension to cross-subsidise the works.

3.35. A further argument is made that the atrium extension will provide a positive urban design feature by drawing pedestrians through the new proposed pedestrian link through to the Market Square and adding 'active frontage'. This pedestrian link is not part of this application but is something which has been put forward as part of applications 22/01129/MAJ and 22/01130/LBC for a new cinema structure, which were withdrawn, and has featured in the early stages of public consultation on proposals put forward by the Council under the Future High Streets Fund (for

which no planning applications have yet been submitted). Officers agree that the southern glazed extension could provide an attractive feature for pedestrians, drawing them through the new hypothetical route. Unfortunately, however, there is no guarantee such a route will ever be pursued, and there is no permission in place for its installation. Members must therefore consider the proposal in the context that there is no guarantee such an urban design benefit could be realised.

- 3.36. A final argument made by the applicant is that the proposal will facilitate improved disabled access to the theatre. Such an improvement would clearly represent a public benefit of the scheme. However, it is not clear that the atrium extension is essential to the disabled access provision and that other changes to the building could not be made to provide level access. This point was raised by the Conservation Officer.
- 3.37. There have been a large number of public representations submitted in support of the scheme. For a full breakdown of these comments please refer to Section 6. Public representations have commented on the benefits of the proposal in terms of reinstating the theatre, the formation of a cultural 'hub' for Newton Abbot, the potential for the theatre to take on a regional focus for entertainment and cultural provision, as well as the potential for wider benefits to arise for the town centre, such as additional visitor spend and enhanced status for the town. Officers recognise and agree with these public benefits. They are important factors to be taken into account.
- 3.38. It is important for the decision maker to bear in mind whether such benefits represent the clear and convincing justification argument required by the NPPF, and whether such benefits would arise in any case, without the southern extension. Would the restoration of the single theatre stage provide these benefits without the café/bar extension? How critical is the café/bar extension to the public benefits identified by members of the public in their representations? This is a matter of planning judgement for the decision maker.
- 3.39. The Design and Access Statement makes reference to the potential for the redeveloped space to offer a tribute to Frank Matcham, born in Newton Abbot in 1854 and a celebrated theatre architect. There is no information provided on how the proposals would achieve this aim but Officers would welcome this as a potential public benefit of the scheme.
- 3.40. A further important consideration for this proposal is the need for a renegotiation of the Theatre's lease with the land owner, Teignbridge District Council. The current terms of the lease allow only 3 weeks of use of the Theatre per year. The proposal and public representations note the public benefits of year-round performance use and indeed it is integral to the proposal that greater use be permitted. Whilst a full time theatre could provide many benefits for Newton Abbot, it is not within the scope of a planning permission, or the Local Planning Authority, to change the terms of the lease and grant increased use. Limited weight can therefore be afforded to this public benefit as there is no confidence that the Council would indeed look to change the lease terms. There is no evidence the applicant has engaged the Council in such discussions and no suggestion an amendment to the lease would occur. The deliverability of the scheme is therefore in doubt, albeit possible.

- 3.41. If achievable, the restoration of a year-round theatre would complement Local and Neighbourhood Plan policies for development in the Town Centre. For example, Policy NA8 supports the delivery of a broader evening economy through encouraging mixed-use developments and leisure schemes. Policy S12 would lend support in principle for an enhancement of the visitor offering, as would EC9 Developments in Town Centres and it is a requirement of S14 Newton Abbot to 'support proposals that reinforce the town's role as a focus for entertainment and cultural provision'. The Neighbourhood Plan's Policy NANDP5 - Provision of Community Facilities and Policy NANDP8 - Town Centre Regeneration would equally support such a scheme.
- 3.42. Drawing these arguments together, Officers consider that there are some public benefits which should be given weight in the planning balance. These include the potential for an urban design enhancement through additional active frontage on a potential new pedestrian route to Market Square, the potential for the public benefits identified in public representations and Local Plan policies to be realised, and the possible delivery of enhanced public understand of Frank Matcham, an important architect originally from Newton Abbot.
- 3.43. Officers consider, however, that these public benefits are modest and uncertain. They fall far below the NPPF's requirement for 'clear and convincing' justification. Insufficient detail particularly in relation to the viability/commercial need for the atrium extension has been provided. Such an argument was what the case officer anticipated when further requests were made for the applicant to justify the atrium, and without this information it is extremely difficult to justify the proposal and make a recommendation of approval, despite the generalised statements of public benefit set out by both the applicant and members of the public.

Is it possible to weigh heritage benefits against heritage harms?

- 3.44. Given Officers consider that heritage benefit will arise from this scheme, in the form of the restoration of the single theatre/auditorium space, Members of the Planning Committee may ask if this benefit can be weighed against the conservation harm in the form of the southern extension.
- 3.45. There is relevant case law on this matter dating from 2021: *City & Country Bramshill Limited v Secretary of State* (Court of Appeal, 9 March 2021). In this judgment, it was found that it is not necessary for the decision maker to undertake a 'net harm' exercise, whereby one heritage harm is weighed against another heritage benefit, and only if 'net harm' is considered to arise is the public benefit argument then addressed.
- 3.46. Instead, the judgment sets out that it is not stipulated, or implied, in legislation or case law, that a decision-maker must undertake a 'net' or 'internal' balance of heritage-related benefits and harm as a self-contained exercise preceding a wider assessment of the kind envisaged in the NPPF. Nor is there any justification for reading such a requirement into the wording of the NPPF.
- 3.47. Therefore, in this case, the balancing exercise is one for the decision maker, taking into account all material considerations. On balance, it is advised that the overall level of harm constitutes 'less than substantial' harm, and this triggers relevant policy in the NPPF which must be followed in the decision making process.

Highways and associated urban design impacts

- 3.48. The proposal entails two key changes to the exterior of the building which relate to pedestrian and vehicle movements. Firstly, to the north of the building, it is proposed to remove an existing area of hard and soft landscaping to install a new loading bay and ten cycle parking spaces (Sheffield-style stands).
- 3.49. Secondly, to the south of the building, owing to the extension, it is proposed to modify the line of the existing pavement to bring it out towards the public highway.
- 3.50. The County Council Highways Officer has sought to clarify the nature of the proposal. A simple form of transport statement was requested to clarify anticipated vehicle numbers, necessary unloading/loading arrangements and further detail in relation to the realigned footway (as it is not currently clear exactly where the new pavement will start/stop).
- 3.51. In relation to vehicle numbers and loading arrangements, the applicant submitted a supporting statement setting out anticipated use of the proposed loading bay. Whilst it is not exactly clear from the statement how many vehicle trips could occur nor how many days the loading bay would be in use, a conservative estimate using the information provided indicates it could be in use c. 180 days per year. The statement also notes that visiting theatre companies may require larger delivery vehicles which would be too large to make use of the new bay.
- 3.52. The Highways Officer has commented that the degree of loading and unloading anticipated would not require a dedicated loading bay. Instead he recommends making use of the existing provision to the south of the building.
- 3.53. There is no indication that the proposal would be a problem for highway safety nor create congestion within the local highway network. Therefore, there is no highways objection to the proposal as such. Instead, officers simply consider that there is insufficient justification for the works to remove the section of public footpath and landscaping already in place. Given there is a large loading bay, in the ownership of the Council and land owner, already in place to the south of the building, removing the reasonably attractive area of planting and narrowing the pedestrian footway along this section of pavement appears to be poor urban design and an unnecessary intervention.
- 3.54. This matter is therefore recommended to form a second reason for refusal of the proposal. It would appear contrary to the general aim of Sustainable Development set out at Policy S1 of the adopted Local Plan. It would also conflict with the principles of Quality Development set out at Policy S2, namely the need to make efficient and effective use of land, design spaces which are attractive, and ensure highway requirements do not dominate the site's appearance and function.
- 3.55. Whilst the detail of the changes to the pavement to the southern side of the building have not been clarified by the applicant, given the comments from the Environment Agency in relation to the pavement design (see below), it would be possible to address this matter through the use of a planning condition.

Flood risk

- 3.56. The site lies in the highest flood risk zone (zone 3) immediately above the underground River Lemon. It is also at high risk of surface water flooding.

- 3.57. The Environment Agency and Teignbridge's Drainage Engineers have provided no objection to the scheme but recommend the use of planning conditions to secure measures such as those to ensure the safety of occupants during a flood, to provide detailed drawings of the new kerb design for the footpath outside the atrium extension, and to ensure the use of flood resistant and resilient building materials.
- 3.58. It is noted that the loss of the tree to the south of the building and area of landscaping to the north will reduce the potential for sustainable urban drainage and potentially worsen surface water flooding. Through condition the applicant would need to consider measures to mitigate the loss of these features and additional tree planting could be secured.

Biodiversity

- 3.59. There is no objection to the proposal from a biodiversity perspective. Although the site lies within the Landscape Connectivity Zone for the South Hams SAC, its urban location ensures there is no concern with the proposed installation of a large body of new glazing with high light-spill potential. Enhancement measures are proposed and could be secured through the use of a planning condition.

Air quality

- 3.60. Although the site lies within an Air Quality Management Area, the Council's Environmental Health team have advised that there are no comments to be made on this proposal and hence no adverse impact on air quality is considered likely to arise.

Conclusion

- 3.61. The key planning matters relating to this proposal comprise the impact of the works upon the listed building, whether the harm of such works outweigh the public benefits which could arise, and whether the changes to the highway and pedestrian footway are necessary in light of the existing loading bay to the south of the site.
- 3.62. Officers recognise and support the applicant's intention to provide a restored single Theatre which could offer wider cultural and visitor benefits for the town, as well as offering heritage benefit through the loss of the upper-level 1990s cinema screen. Officers support the applicant's aim to provide a commercially-viable facility which would support itself through cross-subsidisation via additional floorspace in the southern extension. Officers also appreciate the likely significant cost and time commitment involved in putting together these planning and listed building consent applications, which have brought fresh-thinking to the wider town centre regeneration proposals.
- 3.63. Officers broadly concur with the views expressed in public representations of the potential benefits of the scheme, as well as the external bodies, such as the Theatres Trust and Victorian Society, all of whom comment on the benefits of strengthening the cultural offering of the town and enhancing community involvement and performance space.
- 3.64. The reason the application is recommended for refusal is therefore not because officers do not agree with the broad intention and ambition of the proposal, but

because the specific detail of the proposal fails to address planning policy adequately. To justify harm arising from the southern extension, which will overwhelm the existing listed building in architectural terms, the decision maker needs a clear and convincing justification of the public benefits; yet the applicant provides no evidence that the southern extension is in fact necessary to the commercial viability or deliverability of the theatre restoration project. Particularly in light of the land owner's wider holding in the town centre, and ownership of the adjoining part of the building (the Market Hall), the financial argument for the southern extension is not there. It seems feasible to officers that the internal theatre restoration works could take place without the southern extension. If that is the case, the application taken as a whole cannot be recommended for approval.

- 3.65. With regard to the loading bay and loss of landscaping, the proposal put forward does not appear to be the best use of land, in light of the substantial existing loading area to the immediate south of the site.
- 3.66. Taking these points together, officers recommend refusal of the scheme for two reasons: the unjustified heritage harm, and the undesirability of the loading bay works.

4. POLICY DOCUMENTS

4.1. Teignbridge Local Plan 2013-2033 (TLP)

S1 Sustainable Development Criteria
S2 Quality Development
S6 Resilience
S7 Carbon Emission Targets
S12 Tourism
S13 Town Centres
S14 Newton Abbot
EC1 Business Development
EC9 Developments in Town Centres
EC12 Tourist Attractions
WE12 Loss of Local Facilities
WE13 Protection of Recreational Land and Buildings
EN2A Landscape Protection and Enhancement
EN3 Carbon Reduction Plans
EN4 Flood Risk
EN5 Heritage Assets
EN6 Air Quality
EN7 Contaminated Land
EN8 Biodiversity Protection and Enhancement
EN9 Important Habitats and Features
EN10 European Wildlife Sites
EN11 Legally Protected and Priority Species
EN12 Woodlands, Trees and Hedgerows
NA8 Newton Abbot Town Centre Development
NA9 Opportunity Area: Town Centre Markets Area

4.2. **Newton Abbot Neighbourhood Development Plan 2016**

Policy NANDP2 – Quality of Design

Policy NANDP3 - Natural Environment and Biodiversity

Policy NANDP5 - Provision of Community Facilities

Policy NANDP8 - Town Centre Regeneration

Policy NANDP11 - Protection of Designated and Non Designated Heritage Assets

4.3. **National Planning Policy Framework (NPPF) (2023)**

4.4. **National Planning Policy Guidance (PPG)**

4.5. **Proposed Submission Local Plan 2020-2040**

This is the Regulation 19 version of the Emerging Local Plan (i.e. the final draft). It is the version of the Plan which will be submitted to the Planning Inspectorate for public examination. The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.

5. **CONSULTEES**

5.1. **Conservation Officer – Teignbridge District Council**

Extracts of detailed/final observations 21st December 2023 (for the full consultation response please refer to the application file)

Background

This application, submitted by a local theatre group, aims to retrofit the existing two stages back into one theatre and a stage for performances as well as being a cinema. The building is adjacent to the historic Market Hall. It should be noted that schemes are also being considered concurrently on ways to invigorate the Market Square. Part of the proposal is a new pedestrian route through to the Market Square.

Design issues

The proposed scheme for the theatre retains the existing tiered balcony seating but extends this down to stage level providing a maximum capacity of 265 seats with a traditional stage arrangement. The number of seats are reduced to 240 seats when the stage is extended forward to provide an improved space for dance performances, orchestras and other community uses.

The design retains the existing stage facilities including the flying systems, the orchestra pit, the wings and six backstage changing rooms. Disabled access is provided to stage level by a platform lift and to a side gallery for performance viewing.

Beneath the tiered seating, a concourse area contains a bar and box office with links to improved toilet facilities and to the new entrance and atrium space. The atrium will also serve as a café and occasional small performance and exhibition space.

An administration office is shown adjacent to the gallery with a view into the auditorium. The auditorium will be renovated to provide a modern performance space with acoustics for a variety of uses.

Significance

In particular regard to this application, it is important to note that originally the western floor plan and elevations are clearly symmetrical. This is an important component of the 1871 classical design, with its semi-circular arched stone windows by architect John Chudleigh.

Types of Harm: When assessing what constitutes 'harm' to a heritage asset the NPPF (paragraphs 205 – 208) categorises harm into three areas: substantial harm; less than substantial harm; and no harm. Substantial harm is any impact which would seriously affect a key element of the special architectural or heritage significance of an asset (Planning Practice Guidance, 2019).

Comments

In general the concept to reinstate the original theatre inside is supported.

However, one of the reasons the building designed by Victorian architect John Chudleigh was listed is that it is considered to be of “special architectural interest”. The original features such as the row of semi-circular arched windows, and feature grey limestone tower, is why the host building was listed in the first place. The current proposal will “harm” or cover up these design features.

The proposed new additions and alterations to the southern end of the building are considered “substantial harm” and not just “less than substantial harm”, because they would have a large impact on the original design features that can be seen.

The building is of importance, because of its design, decoration or craftsmanship. It was and still is an important civic building and part of the Market Square. It is a good example of late 19th Neo-classical architecture. It has a pure but simple form, with a series semi-circular windows. Its simple form and massing are part of its significance.

The proposed extension will have a big impact on the way it is seen from the street. By adding a large entry auditorium on the side wall, it will cover up the original architectural detailing, which is one of the main reasons for listing the building. It is also proposed to add small additions to the tower, further eroding the way the building is viewed.

Conclusion

The current application is Not Supported.

Reason: The proposed exterior works would cause substantial harm (in NPPF terms) to the character and significance of the listed Alexander Theatre. It would

cover significant architectural design detailing (by John Chudleigh), the architect of the original Theatre elevations.

5.2. **Conservation Officer – Teignbridge District Council**

Initial observations 15th February 2023

The Theatre was originally built as the Corn Exchange dated 1871 but altered to a Theatre by 1900.

In 1920 further alteration included blocking the windows to enable films and in 1927 a balcony was added and other foyer alterations in 1930.

The current proposals look to reinstate a single theatre from the current two screen split at the balcony point. This allows for an increased Foyer and bar area beneath the upper circle.

These alterations are supported in principle however the original balcony feature is understood to be at least still in situ and it would be preferable to incorporate and reinstate the balcony feature to the new auditorium.

There are however a number of issues with current application that are harmful to the significance of the Theatre.

The Atrium extension involves a large opening to be created in the side wall of the existing building below an existing window and a large, curved glass wall atrium extend out with a catslide continuation of the roof slope to extend over it.

The extension would unbalance a current symmetrical plan form of the building and the scale, form and enlarged roof would be overwhelming to the existing relatively modest building. The extension would also surround the existing store /access addition to the side and it is proposed to remove the roof of this structure raise the walls to underside of the new atrium roof. There are no details as to how the existing structure is to be handled and the proposed alterations including the works to the existing addition, stone walling, existing windows and door openings, and what new materials and finishes are proposed.

While the new atrium would provide access to a wheel chair access lift and gallery to the auditorium this could be accommodated without this structure and extensive alterations.

There is also no justification for the large scale extension as the alterations internally to create a large foyer bar that would include a small stage area would appear more than sufficient to support a Theatre of 270 seats.

The proposal needs a heritage statement that properly assess the buildings fabric and architectural significance of the building and a more informed approach to designing the alterations are required to achieve the appropriate conservation balance in achieving a viable use. The current designs do not sufficiently evidence that they have been developed to respond to the Theatre's architectural significance, integrity, floor plans and fabric.

In addition, while not part of the considerations for this application the atrium would restrict the potential for a new cinema on the adjoining site and improved

pedestrian links to Market Square. A more coordinated approach between the two parties could achieve a more viable Arts and Culture hub for Newton Abbot that allows for Theatre improvements, new Cinema and enhanced public spaces and access.

So while I am supportive of the principle of reinstating a single auditorium and enlarged Foyer area within the extent of the existing building there appears no justification for the atrium extension and the harmful works to the heritage asset that are proposed to achieve this contrary to the National Planning Policy Framework paragraphs 199, 200 and 202. And Local Plan Policy EN5

I consider the proposal should be withdrawn and amended to better achieve the balance between the improved use and the architectural integrity and significance of the Theatre.

5.3. **Highways Officer – Devon County Council**

Initial observations from 8th February 2023

The design and access statement states "The theatre could host small-scale touring productions, comedy nights, and widen its community projects."

Before a recommendation can be made the Highway Authority would like further information as to how the loading/unloading of props and/or scenery will be accommodated. The only "backstage" access appears to be from Sherborne Road which currently has "no waiting at any time" restrictions, making it unsuitable for loading and unloading.

Further observations from 25th August 2023

It is not clear from the site plan what is happening with the realigned footway. The kerb line just appears to stop. Further details of this are required before further comment can be made.

The current restrictions on Market Street are "No Waiting At Any Time". Therefore any unloading/ loading of scenery/props/equipment etc from Market Street is not allowed. There is currently not enough evidence submitted that would justify the construction of a new loading bay either. It would still make more sense to utilise the existing service area, if possible, rather than removing the planted area and creating a new loading bay.

Further observations following additional information from the applicant 6th February 2024

A Highway and conservation statement has been submitted outlining the likely vehicle movements associated with loading and unloading of equipment and materials for the theatre.

Although the documents suggests that there will be a number of performances throughout the year, it is the opinion of the Highway Authority that the amount of loading and unloading does not necessitate a dedicated loading bay.

Provision should be made within the existing Western service yard.

5.4. **Archaeology – Devon County Council**

I refer to the above application and your recent consultation. Given the limited below-ground impact of the proposed extension the Historic Environment Team has no comments to make on this planning application. However, I would advise that the Planning Authority's Conservation Officer is consulted with regard to any comments they may have the scheme and the impact upon the listed building here.

5.5. Victorian Society (extract of comments – for full comments please refer to the application file)

This application envisages the continued use of the Alexandra Cinema as an entertainment venue with some alterations to the fabric to enable this. Overall, the Victorian Society in principle supports a proposal which would ensure the building's continued use as a cinema (as use which it has had for most of its life) and if this application is viewed as an alternative to 22/01129/MAJ then it is preferable as it would not harm the setting of the listed building. Some of the proposed alterations, such as the glazed extension forming a new entertainment space would cause a less than substantial level of harm to the listed building, but the Victorian Society believes this would be justified by the public benefit resulting in the preservation of the building as an entertainment venue.

The application documentation lacks some detail and if it is progress further more detail in terms of drawings and a clear idea of demolitions of the existing building will be required, with a detailed explanation of all the works proposed for the building.

5.6. Theatres Trust (extract of comments – for full comments please refer to the application file)

In principle we support this aspiration. It would deliver a theatre for the town with an indicative capacity of around 270 seats with wheelchair places. Currently theatre provision in Newton Abbot is limited by the restriction on use of the Alexandra, whereas the applicant has provided an indication of wider need and demand for a year-round facility. This in itself would positively enhance and diversify the town's cultural offer, and in addition to this there would be a secondary space capable of hosting smaller/'grass roots' events. Availability of a café/bar with prominence and good visibility would help bring more people into the venue and generate additional income to support its cultural programme and overall financial sustainability.

We assume that currently sets and equipment are brought into the auditorium through the fire exit to the Market Street service road and then lifted onto the stage. This seems to remain the route through (although potentially this may become more challenging because of the pedestrianisation proposals) but this is not an efficient means especially if there is a fuller year-round programme. A potential solution would be to switch the WCs on the north side with the dressing room and rehearsal room and utilise that as a route directly onto the stage. This would also require provision of a parking bay for loading where there are currently double-yellow lines for which engagement with the Council's highways team would be recommended.

On external design we broadly consider these plans to be sensitive to the building's form and significance, although we suggest the new roof might be expressed as a separate pitch to better maintain the building's symmetry. Final

plans for the Alexandra should also correspond with those of the market hall, and vice versa, and we encourage engagement between the respective parties.

Overall we welcome these proposal and are supportive of plans. Policy S14.j of the Teignbridge Local Plan 2013-2033 (2014) supports proposals which reinforce Newton Abbot's role as a focus for entertainment and cultural provision. Part d. of Policy NA8 seeks delivery of a broader evening economy. These proposals would help achieve those aims. Paragraph 93 of the NPPF (2021) seeks planning decisions to plan positively for facilities of this nature. In terms of heritage these plans necessitate internal and external alterations including a side extension. Some of those alterations will reverse later changes and thus constitute heritage benefits, and in other cases will support the site's use and function as a theatre and community facility and enable its retention in such use rather than a more harmful and wholesale change as originally envisaged within the Future High Street plans. We consider the side extension constitutes less than substantial harm. With reference to paragraph 202 of the NPPF, overall that harm as well as those arising from internal alterations is mitigated by the public benefits of this scheme and the delivery of its original and likely optimum viable use.

5.7. Environment Agency 6th Jan 2023

We have no objections in principle to this proposal, however we advise that further detail is required on the proposed changes to the pavement to ensure that this does not result in an increase in flood risk. While these details could be sought via a planning condition, we note that the Highway Authority also requires additional details, so it may be prudent for this detail to be sought prior to the determination of the application.

This area is at risk of surface water and fluvial flooding, and water flows down into market street parking area. We advise that any changes to the pavement may alter the flow paths of this flood water. The changes therefore need to be carefully considered to ensure that there is no increase in flood risk. If you are minded to approve this application without these details, we recommend that they are obtained via a planning condition prior to any development taking place.

5.8. Drainage Officer – Teignbridge District Council

Further consideration is required with regards a flood warning and evacuation plan. There is an EA flood warning system in place for the Newton Abbot area and therefore, the plan should include registering with this service and arrangements should be in place to provide safe evacuation before an extreme flood, taking into account flood depths, velocities and likely debris factor. The LPA Emergency Planner shall be consulted regarding the developments safe access and egress proposals.

The applicant also needs to consider flood resistance and resilient measures in the design of the building.

The proposed design of the building should provide a betterment to the existing surface water drainage management in accordance with the principles of SuDS.

The proposal should consider overland flow routes from the development due to exceedance design flows and blockages to ensure that the design changes does not result in an increase in flood risk.

5.9. **Biodiversity Officer – Teignbridge District Council**

The wildlife survey found no sign of use by bats. Herring gull was found/thought to breed on the flat roof of the adjacent market building. Proposals to enhance biodiversity through installation of bat and bird boxes were included and these are welcomed.

CONDITIONS REQUIRED

The works shall proceed in strict accordance with the precautions, measures and enhancements described in the Bat and Protected Species Survey (by Ecologic, dated July 2022).

REASON: For the protection and enhancement of biodiversity and to provide biodiversity net gain.

5.10. **Air Quality – Teignbridge District Council**

No observations

5.11. **Designing out Crime (summarised comments – for full comments please refer to the application file)**

No objection – series of recommendations to reduce crime and anti-social behaviour:

- Ensure doors and windows meet security standards and new atrium glazing should include attack-resistant glazing
- Be mindful of the inadvertent creation of places for unwanted congregation e.g. sitting on window ledges or cills
- Recommend use of CCTV and installation of an intruder alarm

6. **REPRESENTATIONS**

6.1. 131 letters of representation have been received. 89 were provided in relation to the scheme as originally submitted and 42 to the revised version (relating to the Theatre part of the building only).

6.2. A summary of the comments received is as follows. 122 letters were received in support, 7 in comment and 2 objection.

- Restoration to a single theatre auditorium will preserve the character and functionality of the building, increasing the appeal for live entertainment of all forms, combined with the ability to show films.
- Restoration to a single theatre space could allow use by the community and touring theatre groups throughout the year and establish Newton Abbot as a regional focus for entertainment and cultural provision, complementing the existing library
- JJ's Arts Academy have commented on the need for additional rehearsal and performance space in Newton Abbot

- An orchestra pit should be included
- To ensure commercial viability, there must be provision for refreshments and most importantly a bar. The Alexandra building as it stands cannot accommodate a cafe and bar. The addition of the proposed atrium will provide space for these facilities in a light and welcoming atmosphere being south facing. This atrium would be a striking addition to the Alexandra Theatre forming an elegant gateway to the Market Square.
- The extension could be used as an intimate performance space or for art exhibitions, poetry or comedy
- The atrium extension is sympathetic to the host building and will create a more unified space whilst being modern, practical and flexible
- The alterations will improve the accessibility of the theatre for the disabled
- The proposals are likely to generate additional revenue for the wider town such as through additional spend before and after performances as well as attracting a broader range of visitors to the town centre
- This is a sustainable location in close proximity to car parking and public transport and could reduce carbon emissions associated with travel to venues in the wider region
- The Theatre is an asset for the town which should be preserved
- Welcome the provision of biodiversity enhancements in the proposal
- The cost of the project is excessive for what it will achieve; the current Theatre is ample
- With films available online people are unlikely to make a journey into town
- The comments of the Theatre Trust should be taken on-board
- A cultural hub could improve safety at night
- The arts in general have the potential to improve people's mental health and wellbeing as well as help children's development
- The footway adjacent to the proposed new entrance appears to be quite narrow and is next to the goods entrance for this part of the town centre. This could be overcome by moving the new atrium entrance towards market square.
- The new bar area should be linked to the toilets via a ramp and not via steps as shown on the plans (to ensure disabled access)
- Support for swift boxes on the new building

6.3. Newton Abbot & District Civic Society expressed general support for the original proposal.

7. TOWN / PARISH COUNCIL'S COMMENTS

No Objection, Newton Abbot Town Council fully supports the application which is respectful to the important heritage of the town.

8. COMMUNITY INFRASTRUCTURE LEVY

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

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.

10. CARBON/CLIMATE IMPACT

No detail has been provided in relation to the carbon/climate impact of the scheme. Opportunities for the use of low-carbon materials or the installation of renewable energy measures could be explored through the use of planning condition.

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.

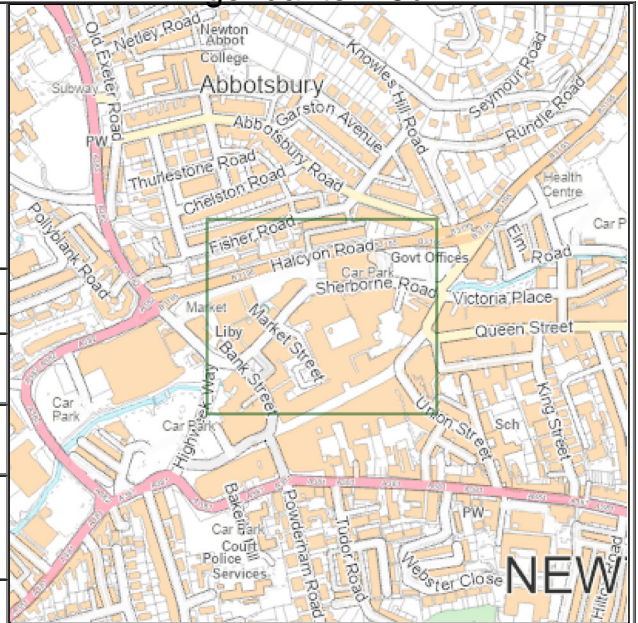
Head of Place and Commercial Services



Planning Committee Report

Chairman: Cllr Colin Parker

Date	19 March 2024
Case Officer	Jennifer Joule
Location	Alexandra Cinema Market Street Newton Abbot Devon TQ12 2RB
Proposal	Restoration of single theatre auditorium, atrium extension to the south and associated alterations
Applicant	The Alexandra Theatre CBS
Ward	Bushell
Member(s)	Cllr Rob Hayes, Cllr Jackie Hook
Reference	22/01598/LBC



[Online Details and Documents](#)

RECOMMENDATION: CONSERVATION/LBC/LBD REFUSAL



1. REASON FOR REPORT

A Trustee of The Alexandra Theatre Newton Abbot Charitable Community Benefit Society is also a Council Member.

2. RECOMMENDATION

Permission be refused for the following reason:

The proposed atrium-style southern extension constitutes less than substantial harm to the significance of the grade II listed Alexandra Theatre as a result of its large bulk and form, which would unbalance the symmetry of the building and be overwhelming to the existing relatively modest structure. There are not considered to be clear and convincing public benefits to provide the justification necessary for such harm to be permitted, as there is no clear case for the extension's need, nor evidence that alternative provision could not be pursued elsewhere. The proposal is therefore considered to conflict with Policy EN5 of the adopted Teignbridge Local Plan 2013-2033 as well as paragraphs 205, 206 and 207 of the National Planning Policy Framework (NPPF) 2023.

3. DESCRIPTION

Site Description

- 3.1. The Alexandra Theatre is located within the centre of Newton Abbot. It forms the western part of the Market Hall building to the immediate south of Market Street and Sherborne Road.
- 3.2. The key planning constraints of relevance to the site and listed building consent proposal are as follows:
 - The Alexandra Theatre is a grade II listed building; and,
 - It is located in close proximity to other grade II listed buildings, notably those along Market Street.
- 3.3. The building was originally constructed in the late 1860s under the architect John Chudleigh. It was constructed together with the Market Hall in locally-dressed limestone in the Italianate style. The west end of the building was originally occupied as a corn exchange but soon after completion it became a public hall, opened in 1871. In 1883 a stage was installed.
- 3.4. The theatre's balcony level was added in the 1920s to facilitate the growing demand for films. The rendered brick extensions seen from the front elevation were added at this time and allowed space for new staircase access to the balcony level and access to the new projection room. This second tier of seating was 'boxed-in' in 1998 to form the second cinema screen.
- 3.5. Since the 1970s, a cinema has occupied the building alongside use by local theatre and performance groups, including the applicants for this proposal.
- 3.6. The building was listed at grade II in 1972.

- 3.7. The Local Planning Authority understands that the terms of the lease with the Council, the land owner, currently permit only three weeks of theatre use per year. For the rest of the year the building is in use as a cinema.

Relevant Planning History

- 3.8. 95/03185/LBC - Build sound-proof internal wall to form 2nd auditorium & convert pt of foyer to project – Approved 1996
- 3.9. 22/01129/MAJ and 22/01130/LBC - Demolition of existing buildings, erection of four screen cinema building on upper levels with two Class E(a, b) units on the ground floor, associated ancillary accommodation and external works – Withdrawn
- 3.10. Linked application for planning permission:
22/01597/FUL Restoration of single theatre auditorium, atrium extension to the south and associated alterations – Under consideration

Proposed Development

- 3.11. There are two main elements to the proposals:
- Restore a single theatre/auditorium space within the existing two-screen cinema/theatre; and,
 - Build an atrium-style extension to the southern side of the building for use as a bar/café.

Other elements include:

- Additional storage and toilet facilities in the entrance foyer;
- An extended stage;
- Level access for disabled users via the southern extension;
- New kitchen and office in the existing single-storey southern projection; and
- Opening up of existing balcony (boxed-in to form second cinema screen) to form second seating tier.

It should be noted that changes to the exterior of the listed building, such as works to form the new loading bay, are unlikely to require listed building consent.

- 3.12. The applicant has amended the scheme during the determination period. When originally submitted, the proposal related to the full extent of the listed building and included changes to the market hall itself. The red line extent of the application site was subsequently reduced to comprise only the theatre and revised drawings were supplied.

Heritage Impact

- 3.13. In coming to this decision the Council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting

and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.

- 3.14. The significance of the Alexandra Theatre is considered to derive from its design, decoration and craftsmanship. It was and still is an important civic building and part of the Market Square. It is a good example of late 19th Neo-classical architecture in the Italianate style. It has a pure but simple form, with a series of arched window features. Its simple form and massing are part of its significance.
- 3.15. The Conservation Officer does not raise concern with the internal changes, namely the proposed single auditorium/theatre space including the restoration of the second seating tier and associated works. Officers support these changes as they will reinstate the 1920s works to enlarge the capacity of the theatre. It is expected that the original balcony remains in place and can be restored through the proposal. Furthermore, the changes to allow disabled access are welcomed. The internal works are therefore not considered to amount to harm to the asset.
- 3.16. The Conservation Officer has set out that the proposed southern extension amounts to substantial harm to the significance of the asset. Substantial harm is an unusually high degree of harm. Harm occurs on a spectrum, but the NPPF specifically provides two categories of harm which Local Planning Authorities should use: 'less than substantial' and 'substantial', with policy flowing on from a conclusion of either category of harm. Planning Officers have reviewed the Conservation Officer's comments as well as those from external advisory bodies and consider that the proposal amounts to harm which occurs at the higher end of the less than substantial category.
- 3.17. The Conservation Officer has advised that the harm arises in this case from the southern atrium extension. This harm derives from:
- The atrium extension will remove a fundamental component of the original design: the symmetry of the building;
 - The atrium will cocoon the original elevation of the host building and the large new roof form will prevent an understanding of the original listed structure;
 - The simple form and massing of the building will be lost, overwhelming the existing relatively modest structure; and,
 - The atrium extension will partially remove the historic fabric of the semi-circular arched windows on the southern elevation, both an irreplaceable resource and an important feature of the original 1871 design.
- 3.18. Planning Officers agree with this assessment of harm but consider the overall impact of the extension is less than substantially harmful due to the glazed nature of the proposed atrium elevations, which will continue to allow views of the listed fabric enclosed within the extension. Furthermore, whilst the roof form is unduly large and bulky, the building will primarily be experienced from ground floor level where the roof form would not be viewed head on.
- 3.19. The changes to the building are shown on the proposed elevation drawings as follows:



Figure 1: Extract of the proposed southern elevation drawing ref. 22.20_PL_201 REV.C



Figure 2: Extract of the existing southern elevation drawing ref. 22.20_PL_007 REV.C

3.20. In their consultation responses both the Victorian Society and the Theatres Trust have raised concern with the design atrium extension and consider it amounts to less than substantial harm to the significance of the building. The Theatres Trust suggested an amendment to alter the roof pitch such that it would better preserve the symmetry of the building.

- 3.21. The NPPF (2023) advises that ‘great weight’ should be given by the decision maker to any heritage asset’s conservation.
- 3.22. In cases of harm, paragraph 206 of the NPPF requires that: ‘[a]ny harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.’
- 3.23. In cases of harm, paragraph 206 of the NPPF requires that: ‘any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.’
- 3.24. Paragraph 208 provides further policy on how decision makers should act where less than substantial harm is identified:

208. 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, where appropriate, securing its optimum viable use.

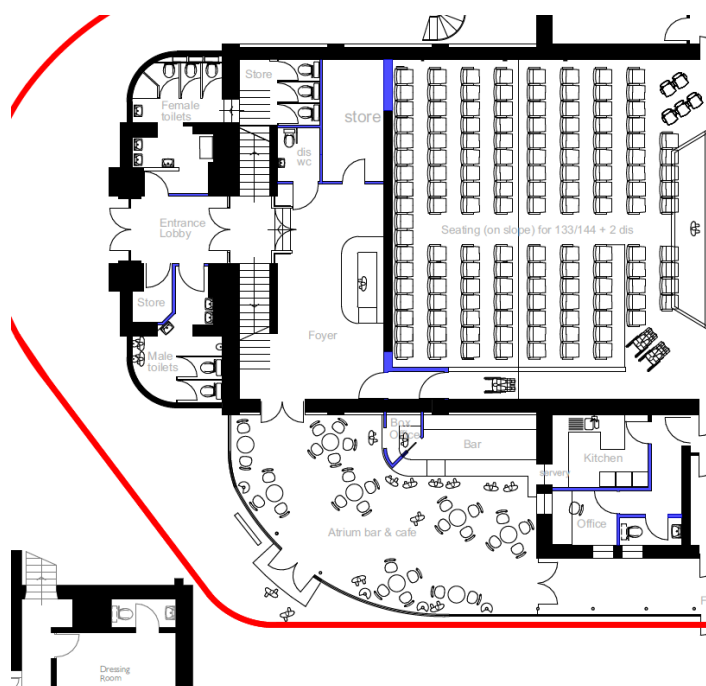
An assessment of public benefits is undertaken below.

- 3.25. Policy EN5 of the adopted Teignbridge Local Plan requires that proposals ‘protect and enhance the area’s heritage...take account of the significance’ of any affected heritage asset. This proposal is considered to conflict with this Local Plan Policy because it will obscure and reduce understanding of the significance of the asset.
- 3.26. For the same reasons as those identified above, the proposal is considered to conflict with emerging Policy EN17: Heritage Assets.
- 3.27. There are other grade II listed buildings located along Market Street: the Adult Education Centre and Library, the Liberal Club, 7 Market Street and 9 and 11 Market Street. This proposal could be considered to fall within the settings of these buildings. However, the Conservation Officer has not identified any harm would arise to these buildings, and the location of the body of works to the southern side of the Alexandra Theatre will largely obscure views of the extension from these listed buildings. Therefore, it is considered that the proposal would have a neutral impact on their significance.

The Public Benefit Argument

- 3.28. Given the NPPF makes provision for the decision maker to allow less than substantial harm to occur to listed buildings in some circumstances, it is necessary to consider if such circumstances, or clear and convincing justification, is available in the case of this application.
- 3.29. Given the importance of this justification to the likelihood of a recommendation of approval, the applicant was provided with an opportunity to set out this justification to the Local Planning Authority. The applicant’s agent provided an email dated 28th July 2023 and a further statement in January 2024 which sought to justify the extension.

- 3.30. The key arguments presented by the applicant and agent are considered as follows. The first is that the southern extension is critical to support the commercial viability of the Theatre and enhance its overall offering to members of the public. It is stated that there is insufficient space in the foyer within the existing listed building to provide a revenue-generating facility and therefore an extension must be built.
- 3.31. Officers understand that a café and/or bar is often a feature of a theatre and consider it likely that the revenue of such a facility is a helpful supplement to ticket sales. However, no such case has been put forward by the applicants. There has been no assessment of anticipated revenue, no business case, no information on costings, financing or anticipated use arrangements. Whilst in a hypothetical scenario a café and bar would likely assist with revenue generation, there is no information supplied with this application to demonstrate that such an additional facility is necessary in this case. Given the high degree of harm arising from the extension, the Local Planning Authority would expect a detailed business case to provide the justification. For example, one would expect an argument to be made that the restoration to a single theatre (the main benefit of the scheme) was only possible if additional revenue streams were pursued, and hence the project would not continue without the southern extension's floorspace. Unfortunately, the application lacks this detail.
- 3.32. In the meantime, the proposal relies on general statements that the café/bar will provide an important source of income, whilst failing to justify that such an income stream would be necessary. The overall deliverability of the scheme is brought in to question as a result of the seeming lack of any detailed financial planning. If such justification had been provided, Officers may have been in a position to consider that there were sufficient public benefits arising from the scheme.
- 3.33. The proposed floor plan (extract below) shows two entrance spaces: a foyer within the existing scope of the building, and the new bar and café to the south. The role and function of the foyer is unclear, it could be circulation space or could be used for sales, but this has not been clarified. The necessity of the atrium extension remains unclear until all other options have been considered.



- 3.34. Furthermore, taking in to account the land ownership of the site, and the Council's land holding in the town centre, which includes the wider Market Hall and Market Square, it is not clear that a bar/café space would need to be sited directly to the south of the new theatre to cross-subsidise the theatre space. If a café/bar was instead installed within the Market Hall itself (incidentally these proposals are under early consideration by the Council under the Future High Streets Fund), it could still provide synergies and cross-subsidisation of the theatre use.
- 3.35. Paragraph 207 of the NPPF sets out that consideration be given to conservation by grant-funding or through the use of some form of not for profit, charitable or public ownership. There is no evidence the applicants have pursued these routes to funding the restoration of the theatre without the southern extension. The Council has demonstrated, for example, that it is able to source central government funding, such as from the Future High Streets Fund. It is possible that the Council could obtain funding for restoration to a single theatre space without the need for the atrium extension to cross-subsidise the works.
- 3.36. A further argument is made that the atrium extension will provide a positive urban design feature by drawing pedestrians through the new proposed pedestrian link through to the Market Square and adding 'active frontage'. This pedestrian link is not part of this application but is something which has been put forward as part of applications 22/01129/MAJ and 22/01130/LBC for a new cinema structure, which were withdrawn, and has featured in the early stages of public consultation on proposals put forward by the Council under the Future High Streets Fund (for which no planning applications have yet been submitted). Officers agree that the southern glazed extension could provide an attractive feature for pedestrians, drawing them through the new hypothetical route. Unfortunately, however, there is no guarantee such a route will ever be pursued, and there is no permission in place for its installation. Members must therefore consider the proposal in the context that there is no guarantee such an urban design benefit could be realised.
- 3.37. A final argument made by the applicant is that the proposal will facilitate improved disabled access to the theatre. Such an improvement would clearly represent a public benefit of the scheme. However, it is not clear that the atrium extension is essential to the disabled access provision and that other changes to the building could not be made to provide level access. This point was raised by the Conservation Officer.
- 3.38. There have been a large number of public representations submitted in support of the scheme. For a full breakdown of these comments please refer to Section 6. Public representations have commented on the benefits of the proposal in terms of reinstating the theatre, the formation of a cultural 'hub' for Newton Abbot, the potential for the theatre to take on a regional focus for entertainment and cultural provision, as well as the potential for wider benefits to arise for the town centre, such as additional visitor spend and enhanced status for the town. Officers recognise and agree with these public benefits. They are important factors to be taken into account.
- 3.39. It is important for the decision maker to bear in mind whether such benefits represent the clear and convincing justification argument required by the NPPF,

and whether such benefits would arise in any case, without the southern extension. Would the restoration of the single theatre stage provide these benefits without the café/bar extension? How critical is the café/bar extension to the public benefits identified by members of the public in their representations? This is a matter of planning judgement for the decision maker.

- 3.40. The Design and Access Statement makes reference to the potential for the redeveloped space to offer a tribute to Frank Matcham, born in Newton Abbot in 1854 and a celebrated theatre architect. There is no information provided on how the proposals would achieve this aim but Officers would welcome this as a potential public benefit of the scheme.
- 3.41. A further important consideration for this proposal is the need for a renegotiation of the Theatre's lease with the land owner, Teignbridge District Council. The current terms of the lease allow only 3 weeks of use of the Theatre per year. The proposal and public representations note the public benefits of year-round performance use and indeed it is integral to the proposal that greater use be permitted. Whilst a full time theatre could provide many benefits for Newton Abbot, it is not within the scope of a planning permission, or the Local Planning Authority, to change the terms of the lease and grant increased use. Limited weight can therefore be afforded to this public benefit as there is no confidence that the Council would indeed look to change the lease terms. There is no evidence the applicant has engaged the Council in such discussions and no suggestion an amendment to the lease would occur. The deliverability of the scheme is therefore in doubt, albeit possible.
- 3.42. If achievable, the restoration of a year-round theatre would complement Local and Neighbourhood Plan policies for development in the Town Centre. For example, Policy NA8 supports the delivery of a broader evening economy through encouraging mixed-use developments and leisure schemes. Policy S12 would lend support in principle for an enhancement of the visitor offering, as would EC9 Developments in Town Centres and it is a requirement of S14 Newton Abbot to 'support proposals that reinforce the town's role as a focus for entertainment and cultural provision'. The Neighbourhood Plan's Policy NANDP5 - Provision of Community Facilities and Policy NANDP8 - Town Centre Regeneration would equally support such a scheme.
- 3.43. Drawing these arguments together, Officers consider that there are some public benefits which should be given weight in the planning balance. These include the potential for an urban design enhancement through additional active frontage on a potential new pedestrian route to Market Square, the potential for the public benefits identified in public representations and Local Plan policies to be realised, and the possible delivery of enhanced public understanding of Frank Matcham, an important architect originally from Newton Abbot.
- 3.44. Officers consider, however, that these public benefits are modest and uncertain. They fall far below the NPPF's requirement for 'clear and convincing' justification. Insufficient detail particularly in relation to the viability/commercial need for the atrium extension has been provided. Such an argument was what the case officer anticipated when further requests were made for the applicant to justify the atrium, and without this information it is extremely difficult to justify the proposal and make a recommendation of approval, despite the generalised statements of public benefit set out by both the applicant and members of the public.

Is it possible to weigh heritage benefits against heritage harms?

- 3.45. Given Officers consider that heritage benefit will arise from this scheme, in the form of the restoration of the single theatre/auditorium space, Members of the Planning Committee may ask if this benefit can be weighed against the conservation harm in the form of the southern extension.
- 3.46. There is relevant case law on this matter dating from 2021: *City & Country Bramshill Limited v Secretary of State* (Court of Appeal, 9 March 2021). In this judgment, it was found that it is not necessary for the decision maker to undertake a 'net harm' exercise, whereby one heritage harm is weighed against another heritage benefit, and only if 'net harm' is considered to arise is the public benefit argument then addressed.
- 3.47. Instead, the judgment sets out that it is not stipulated, or implied, in legislation or case law, that a decision-maker must undertake a 'net' or 'internal' balance of heritage-related benefits and harm as a self-contained exercise preceding a wider assessment of the kind envisaged in the NPPF. Nor is there any justification for reading such a requirement into the wording of the NPPF.
- 3.48. Therefore, in this case, the balancing exercise is one for the decision maker, taking into account all material considerations. On balance, it is advised that the overall level of harm constitutes 'less than substantial' harm, and this triggers relevant policy in the NPPF which must be followed in the decision making process.
- 3.49. **Conclusion**
- 3.50. The key matters relating to this proposal for listed building consent comprise the impact of the works upon the listed building and whether the harm of such works outweigh the public benefits which could arise.
- 3.51. Officers recognise and support the applicant's intention to provide a restored single Theatre which could offer wider cultural and visitor benefits for the town, as well as offering heritage benefit through the loss of the upper-level 1990s cinema screen. Officers support the applicant's aim to provide a commercially-viable facility which would support itself through cross-subsidisation via additional floorspace in the southern extension. Officers also appreciate the likely significant cost and time commitment involved in putting together these planning and listed building consent applications, which have brought fresh-thinking to the wider town centre regeneration proposals.
- 3.52. Officers broadly concur with the views expressed in public representations of the potential benefits of the scheme, as well as the external bodies, such as the Theatres Trust and Victorian Society, all of whom comment on the benefits of strengthening the cultural offering of the town and enhancing community involvement and performance space.
- 3.53. The reason the application is recommended for refusal is therefore not because officers do not agree with the broad intention and ambition of the proposal, but because the specific detail of the proposal fails to address planning policy adequately. To justify harm arising from the southern extension, which will overwhelm the existing listed building in architectural terms, the decision maker needs a clear and convincing justification of the public benefits; yet the applicant provides no evidence that the southern extension is in fact necessary to the

commercial viability or deliverability of the theatre restoration project. Particularly in light of the land owner's wider holding in the town centre, and ownership of the adjoining part of the building (the Market Hall), the financial argument for the southern extension is not there. It seems feasible to officers that the internal theatre restoration works could take place without the southern extension. If that is the case, the application taken as a whole cannot be recommended for approval.

- 3.54. Taking these points together, officers recommend refusal of the scheme on the basis of the unjustified heritage harm.

4. POLICY DOCUMENTS

4.1. Teignbridge Local Plan 2013-2033

S1 Sustainable Development Criteria

S2 Quality Development

EN5 Heritage Assets

4.2. Newton Abbot Neighbourhood Development Plan 2016

Policy NANDP11 - Protection of Designated and Non Designated Heritage Assets

4.3. National Planning Policy Framework (NPPF) (2023)

4.4. National Planning Policy Guidance (PPG)

4.5. Proposed Submission Local Plan 2020-2040

This is the Regulation 19 version of the Emerging Local Plan (i.e. the final draft). It is the version of the Plan which will be submitted to the Planning Inspectorate for public examination. The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.

5. CONSULTEES

5.1. Conservation Officer – Teignbridge District Council

Extracts of detailed/final observations 21st December 2023 (for the full consultation response please refer to the application file)

Background

This application, submitted by a local theatre group, aims to retrofit the existing two stages back into one theatre and a stage for performances as well as being a cinema. The building is adjacent to the historic Market Hall. It should be noted that schemes are also being considered concurrently on ways to invigorate the Market Square. Part of the proposal is a new pedestrian route through to the Market Square.

Design issues

The proposed scheme for the theatre retains the existing tiered balcony seating but extends this down to stage level providing a maximum capacity of 265 seats with a traditional stage arrangement. The number of seats are reduced to 240 seats when the stage is extended forward to provide an improved space for dance performances, orchestras and other community uses.

The design retains the existing stage facilities including the flying systems, the orchestra pit, the wings and six backstage changing rooms. Disabled access is provided to stage level by a platform lift and to a side gallery for performance viewing.

Beneath the tiered seating, a concourse area contains a bar and box office with links to improved toilet facilities and to the new entrance and atrium space. The atrium will also serve as a café and occasional small performance and exhibition space.

An administration office is shown adjacent to the gallery with a view into the auditorium. The auditorium will be renovated to provide a modern performance space with acoustics for a variety of uses.

Significance

In particular regard to this application, it is important to note that originally the western floor plan and elevations are clearly symmetrical. This is an important component of the 1871 classical design, with its semi-circular arched stone windows by architect John Chudleigh.

Types of Harm: When assessing what constitutes 'harm' to a heritage asset the NPPF (paragraphs 205 – 208) categorises harm into three areas: substantial harm; less than substantial harm; and no harm. Substantial harm is any impact which would seriously affect a key element of the special architectural or heritage significance of an asset (Planning Practice Guidance, 2019).

Comments

In general the concept to reinstate the original theatre inside is supported.

However, one of the reasons the building designed by Victorian architect John Chudleigh was listed is that it is considered to be of “special architectural interest”. The original features such as the row of semi-circular arched windows, and feature grey limestone tower, is why the host building was listed in the first place. The current proposal will “harm” or cover up these design features.

The proposed new additions and alterations to the southern end of the building are considered “substantial harm” and not just “less than substantial harm”, because they would have a large impact on the original design features that can be seen.

The building is of importance, because of its design, decoration or craftsmanship. It was and still is an important civic building and part of the Market Square. It is a good example of late 19th Neo-classical architecture. It has a pure but simple form, with a series semi-circular windows. Its simple form and massing are part of its significance.

The proposed extension will have a big impact on the way it is seen from the street. By adding a large entry auditorium on the side wall, it will cover up the original architectural detailing, which is one of the main reasons for listing the building. It is also proposed to add small additions to the tower, further eroding the way the building is viewed.

Conclusion

The current application is Not Supported.

Reason: The proposed exterior works would cause substantial harm (in NPPF terms) to the character and significance of the listed Alexander Theatre. It would cover significant architectural design detailing (by John Chudleigh), the architect of the original Theatre elevations.

5.2. **Conservation Officer – Teignbridge District Council**

Initial observations 15th February 2023

The Theatre was originally built as the Corn Exchange dated 1871 but altered to a Theatre by 1900.

In 1920 further alteration included blocking the windows to enable films and in 1927 a balcony was added and other foyer alterations in 1930.

The current proposals look to reinstate a single theatre from the current two screen split at the balcony point. This allows for an increased Foyer and bar area beneath the upper circle.

These alterations are supported in principle however the original balcony feature is understood to be at least still in situ and it would be preferable to incorporate and reinstate the balcony feature to the new auditorium.

There are however a number of issues with current application that are harmful to the significance of the Theatre.

The Atrium extension involves a large opening to be created in the side wall of the existing building below an existing window and a large, curved glass wall atrium extend out with a catslide continuation of the roof slope to extend over it.

The extension would unbalance a current symmetrical plan form of the building and the scale, form and enlarged roof would be overwhelming to the existing relatively modest building. The extension would also surround the existing store /access addition to the side and it is proposed to remove the roof of this structure raise the walls to underside of the new atrium roof. There are no details as to how the existing structure is to be handled and the proposed alterations including the works to the existing addition, stone walling, existing windows and door openings, and what new materials and finishes are proposed.

While the new atrium would provide access to a wheel chair access lift and gallery to the auditorium this could be accommodated without this structure and extensive alterations.

There is also no justification for the large scale extension as the alterations internally to create a large foyer bar that would include a small stage area would appear more than sufficient to support a Theatre of 270 seats.

The proposal needs a heritage statement that properly assesses the buildings fabric and architectural significance of the building and a more informed approach to designing the alterations are required to achieve the appropriate conservation balance in achieving a viable use. The current designs do not sufficiently evidence that they have been developed to respond to the Theatre's architectural significance, integrity, floor plans and fabric.

In addition, while not part of the considerations for this application the atrium would restrict the potential for a new cinema on the adjoining site and improved pedestrian links to Market Square. A more coordinated approach between the two parties could achieve a more viable Arts and Culture hub for Newton Abbot that allows for Theatre improvements, new Cinema and enhanced public spaces and access.

So while I am supportive of the principle of reinstating a single auditorium and enlarged Foyer area within the extent of the existing building there appears no justification for the atrium extension and the harmful works to the heritage asset that are proposed to achieve this contrary to the National Planning Policy Framework paragraphs 199, 200 and 202. And Local Plan Policy EN5

I consider the proposal should be withdrawn and amended to better achieve the balance between the improved use and the architectural integrity and significance of the Theatre.

5.3. **Archaeology – Devon County Council**

I refer to the above application and your recent consultation. Given the limited below-ground impact of the proposed extension the Historic Environment Team has no comments to make on this planning application. However, I would advise that the Planning Authority's Conservation Officer is consulted with regard to any comments they may have on the scheme and the impact upon the listed building here.

5.4. **Victorian Society (extract of comments – for full comments please refer to the application file)**

This application envisages the continued use of the Alexandra Cinema as an entertainment venue with some alterations to the fabric to enable this. Overall, the Victorian Society in principle supports a proposal which would ensure the building's continued use as a cinema (as use which it has had for most of its life) and if this application is viewed as an alternative to 22/01129/MAJ then it is preferable as it would not harm the setting of the listed building. Some of the proposed alterations, such as the glazed extension forming a new entertainment space would cause a less than substantial level of harm to the listed building, but the Victorian Society believes this would be justified by the public benefit resulting in the preservation of the building as an entertainment venue.

The application documentation lacks some detail and if it progresses further more detail in terms of drawings and a clear idea of demolitions of the existing building

will be required, with a detailed explanation of all the works proposed for the building.

5.5. Theatres Trust (extract of comments – for full comments please refer to the application file)

[i]n principle we support this aspiration. It would deliver a theatre for the town with an indicative capacity of around 270 seats with wheelchair places. Currently theatre provision in Newton Abbot is limited by the restriction on use of the Alexandra, whereas the applicant has provided an indication of wider need and demand for a year-round facility. This in itself would positively enhance and diversify the town's cultural offer, and in addition to this there would be a secondary space capable of hosting smaller/'grass roots' events. Availability of a café/bar with prominence and good visibility would help bring more people into the venue and generate additional income to support its cultural programme and overall financial sustainability.

We assume that currently sets and equipment are brought into the auditorium through the fire exit to the Market Street service road and then lifted onto the stage. This seems to remain the route through (although potentially this may become more challenging because of the pedestrianisation proposals) but this is not an efficient means especially if there is a fuller year-round programme. A potential solution would be to switch the WCs on the north side with the dressing room and rehearsal room and utilise that as a route directly onto the stage. This would also require provision of a parking bay for loading where there are currently double-yellow lines for which engagement with the Council's highways team would be recommended.

On external design we broadly consider these plans to be sensitive to the building's form and significance, although we suggest the new roof might be expressed as a separate pitch to better maintain the building's symmetry. Final plans for the Alexandra should also correspond with those of the market hall, and vice versa, and we encourage engagement between the respective parties.

Overall we welcome these proposal and are supportive of plans. Policy S14.j of the Teignbridge Local Plan 2013-2033 (2014) supports proposals which reinforce Newton Abbot's role as a focus for entertainment and cultural provision. Part d. of Policy NA8 seeks delivery of a broader evening economy. These proposals would help achieve those aims. Paragraph 93 of the NPPF (2021) seeks planning decisions to plan positively for facilities of this nature. In terms of heritage these plans necessitate internal and external alterations including a side extension. Some of those alterations will reverse later changes and thus constitute heritage benefits, and in other cases will support the site's use and function as a theatre and community facility and enable its retention in such use rather than a more harmful and wholesale change as originally envisaged within the Future High Street plans. We consider the side extension constitutes less than substantial harm. With reference to paragraph 202 of the NPPF, overall that harm as well as those arising from internal alterations is mitigated by the public benefits of this scheme and the delivery of its original and likely optimum viable use.

6. REPRESENTATIONS

- 6.1. 92 letters of representation have been received. 62 were provided in relation to the scheme as originally submitted and 30 to the revised version (relating to the Theatre part of the building only).
- 6.2. A summary of the comments received is as follows. 86 letters were received in support, 5 in comment and 1 in objection.
- Restoration to a single theatre auditorium will preserve the character and functionality of the building, increasing the appeal for live entertainment of all forms, combined with the ability to show films.
 - Restoration to a single theatre space could allow use by the community and touring theatre groups throughout the year and establish Newton Abbot as a regional focus for entertainment and cultural provision, complementing the existing library
 - JJ's Arts Academy have commented on the need for additional rehearsal and performance space in Newton Abbot
 - An orchestra pit should be included
 - To ensure commercial viability, there must be provision for refreshments and most importantly a bar. The Alexandra building as it stands cannot accommodate a cafe and bar. The addition of the proposed atrium will provide space for these facilities in a light and welcoming atmosphere being south facing. This atrium would be a striking addition to the Alexandra Theatre forming a elegant gateway to the Market Square.
 - The extension could be used as an intimate performance space or for art exhibitions, poetry or comedy
 - The atrium extension is sympathetic to the host building and will create a more unified space whilst being modern, practical and flexible
 - The proposals are overbearing and unnecessary
 - The alterations will improve the accessibility of the theatre for the disabled
 - The proposals are likely to generate additional revenue for the wider town such as through additional spend before and after performances as well as attracting a broader range of visitors to the town centre
 - This is a sustainable location in close proximity to car parking and public transport and could reduce carbon emissions associated with travel to venues in the wider region
 - The Theatre is an asset for the town which should be preserved
 - The cost of the project is excessive for what it will achieve; the current Theatre is ample
 - With films available online people are unlikely to make a journey into town
 - The comments of the Theatre Trust should be taken on-board

- The arts in general have the potential to improve people's mental health and wellbeing as well as help children's development
- The footway adjacent to the proposed new entrance appears to be quite narrow and is next to the goods entrance for this part of the town centre. This could be overcome by moving the new atrium entrance towards market square.
- The new bar area should be linked to the toilets via a ramp and not via steps as shown on the plans (to ensure disabled access)

6.3. Newton Abbot & District Civic Society expressed general support for the original proposal.

7. TOWN / PARISH COUNCIL'S COMMENTS

No Objection, Newton Abbot Town Council fully supports the application which is respectful to the important heritage of the town.

8. CARBON/CLIMATE IMPACT

No detail has been provided in relation to the carbon/climate impact of the scheme. Opportunities for the use of low-carbon materials or the installation of renewable energy measures could be explored through the use of planning condition.

9. 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

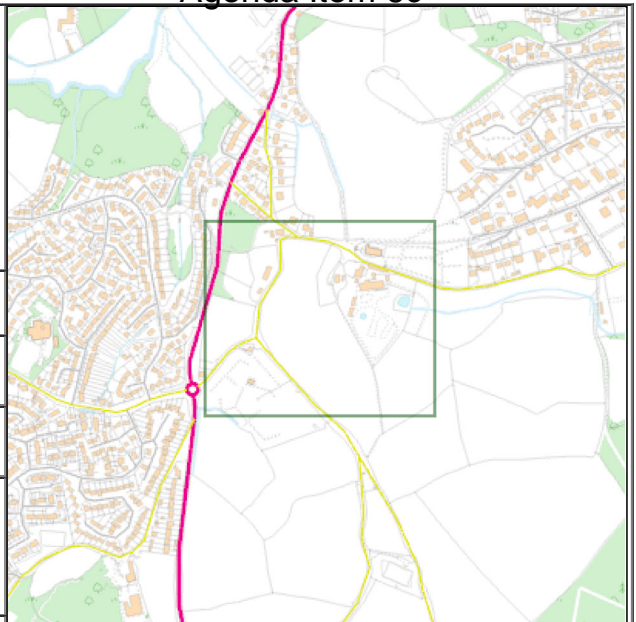
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Planning Committee Report

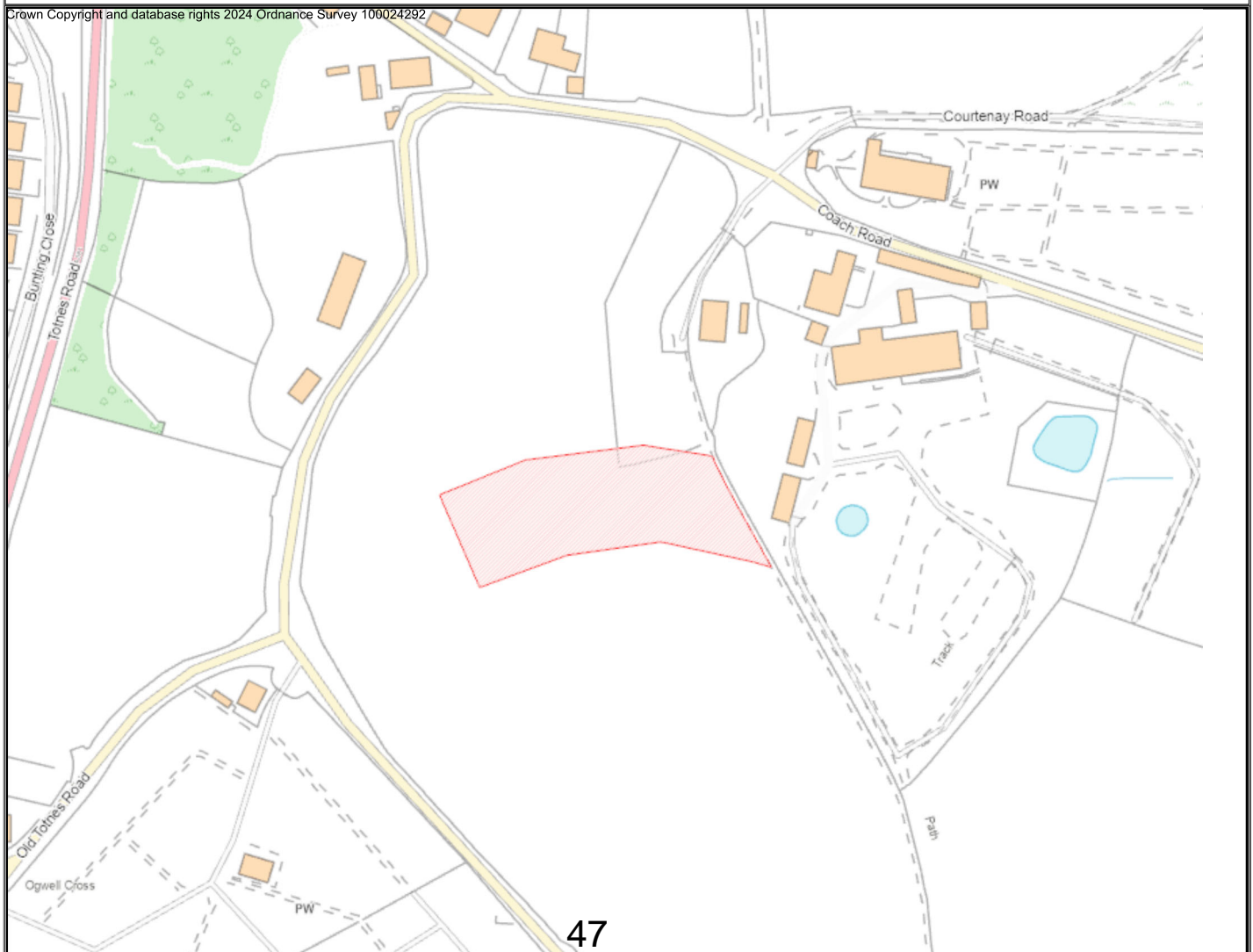
Chairman: Cllr Colin Parker

Date	19 March 2024
Case Officer	Patrick James
Location	Wolborough Barton Coach Road Newton Abbot Devon TQ12 1EJ
Proposal	Approval of details for phase 2 link road in accordance with condition 1 of outline planning permission 17/1542/MAJ (approval sought for appearance, layout, scale and landscaping)
Applicant	Vistry Homes Limited, Baker Estates Limited And The Rew Fami
Ward	College
Member(s)	Cllr Janet Bradford, Cllr Liam Mullone
Reference	22/02069/MAJ



[Online Details and Documents](#)

RECOMMENDATION: null



1. REASON FOR REPORT

The Interim Head of Development Management considers that the application merits oversight by the Planning Committee.

2. RECOMMENDATION

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 Interim Head of Development Management, to include:

1. Accordance with the approved plans, as below.

Date Received	Drawing/reference number	Description
30 Jan 2024	959-05A	Area 2 Infrastructure Phase 1 Application Areas
30 Jan 2024	959-04A	Area 2 Infrastructure Phase 1 Sections
26 Feb 2024	959-03F	Area 2 Infrastructure Phase 1 Landscape Proposal (inc. Line of Section)
30 Jan 2024	959-02C	Area 2 Infrastructure Phase 1 Site Boundary
30 Jan 2024	19545-PHL-01-05 REV F	Link Road Appearance
30 Jan 2024	19545-PHL-01-04 REV G	Extent of Adoption
30 Jan 2024	19545-PHL-01-03 REV G	Swept Path Analysis
30 Jan 2024	19545-PHL-01-02 REV E	Highway Profiles
30 Jan 2024	19545-PHL-01-01 REV I	Highway Layout
30 Jan 2024	19545-PHL-01-01 REV I	Preliminary Drainage Layout

2. Details of the construction of the Devonshire hedgebanks.

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

3. INTRODUCTION/BACKGROUND

3.1 This application seeks the approval of the first set of reserved matters to be submitted following the allowance of the appeal on the grounds of non-

determination of the hybrid permission (part outline, part full) by the Secretary of State as below:

Application Number: 17/01542/MAJ

Site Address: Land at Wolborough Barton, Coach Road, Newton Abbot TQ12 1EJ

Development: HYBRID application comprising:

Outline proposal for mixed use development comprising circa 1210 dwellings (C3), a primary school (D1), up to 12650 sq m of employment floorspace (B1), two care homes (C2) providing up to 5,500 sq m of floorspace, up to 1250 sq m of community facilities (D1), a local centre (A1/A3/A4/A5) providing up to 1250 sq m of floorspace, open space (including play areas, allotments, MUGA) and associated infrastructure (Means of Access to be determined only); and

Full proposal for a change of use of existing agricultural buildings to hotel (C1), restaurant (A3) and bar/drinking establishment (A4) uses, involving erection of new build structures, construction of an access road and parking, plus other associated conversion and minor works.

The Secretary of State decided to allow the appeal and grant planning permission on 3rd June 2020, subject to conditions and 2 legal agreements.

3.2 This application limits itself to seeking approval for the approval of Reserved Matters for appearance, layout, scale and landscaping for a short (approx.160m) gently arcing section of the primary link road through the site, as below in red:

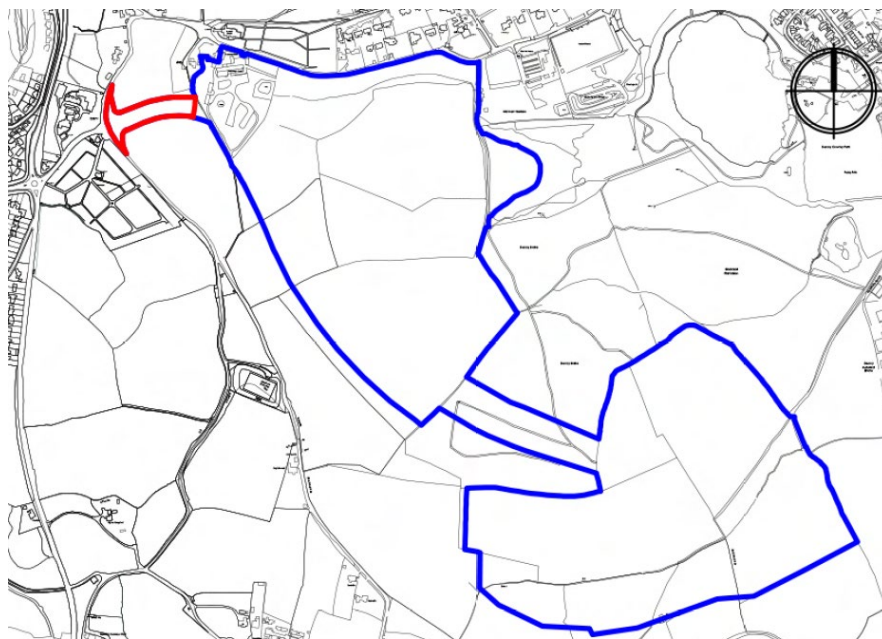


Figure 1: Location of this phase within the head/outline permission.

- a. "Area 2, Infrastructure Phase 1" is defined within the site-wide phasing plan required by Condition 5 of the outline permission, and as approved under application reference 17/01542/COND2, as below:

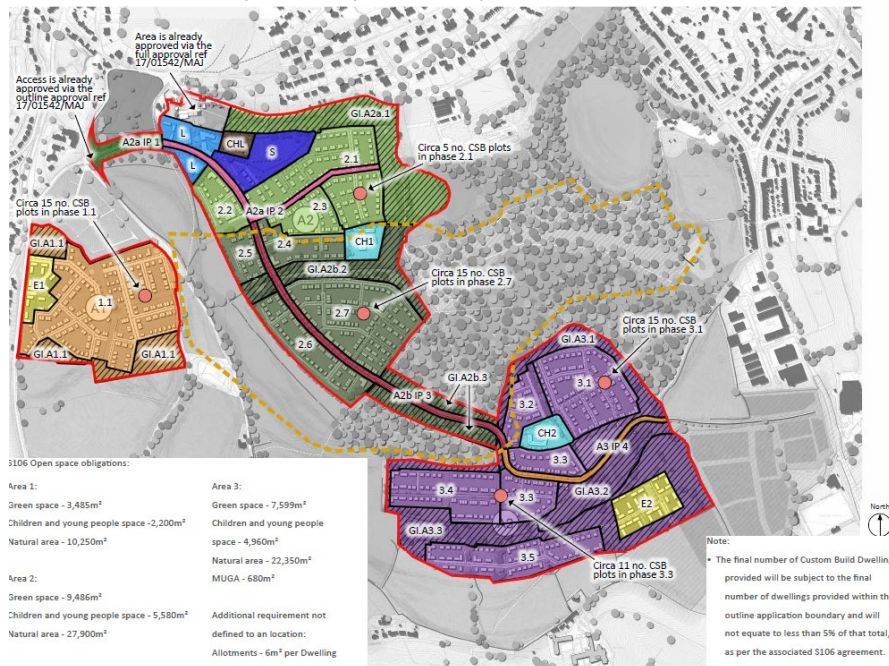


Figure 2: Approved phasing plan (approved under Reference 17/01542/COND2).

- b. Being submitted by the consortium of developers responsible for the main part of the wider site, the application limits itself to the details relating to a short section of road that connects to the detailed entrance access as approved under the hybrid permission. For clarification, 'Access' in so far as it relates to the western site entrance, was approved at the outline stage and so is not a matter reserved for consideration now. However, in line with the statutory definition of 'access', matters relating to this topic for the *internal* part of current site area fall for consideration now. The plan below indicates the site entrance access details as approved under the hybrid permission.

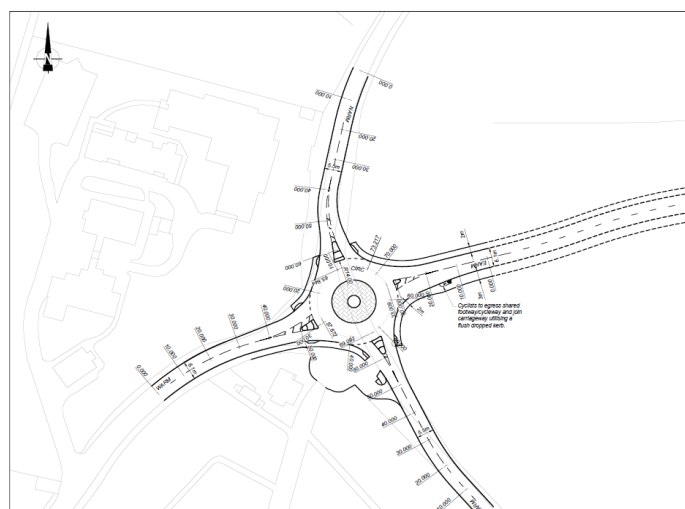


Figure 3: Site entrance access details as approved under reference 17/01542/MAJ.

3.3 'Scale' is defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as: 'the height, width and length of each building proposed within the development in relation to its surroundings.'

3.4 Notably 'scale' is included within the list of reserved matters for which approval is hereby sought. However, as there are no buildings within this phase, there is no scale to be approved.

3.5 On this basis then the matters to be assessed in response to this application are considered to be:

- **The extent to which the submission accords with the outline part of the hybrid permission**
- **Layout**
- **Access (internal only)**
- **Appearance (inc. heritage)**
- **Landscaping**
- **Biodiversity**
- **The climate crisis/carbon reduction**
- **Other matters**
- **Consideration of objections**
- **Conditions**
- **Planning balance & conclusion**

4 DESCRIPTION OF SITE

4.2 The site – which runs approximately east-west - forms part of an agricultural field that lies to the south-west of Newton Abbot and to the east of the village of Ogwell. More specifically, the site runs between Ogwell Cross Cemetery to the west and the dwellings and barns of Wolborough Barton farmstead to the east. The western margin, where the road would connect to the highway network is currently defined by a treed hedgebank that lines Old Totnes Road.

4.3 The land slopes gently down from west to east, from approx. 58m to approx. 52m above Ordnance datum (AOD).

4.4The grade I listed Parish Church of St Mary the Virgin stands on high ground (c.63m AOD) to the north-east, within part of the Wolborough Hill Conservation Area. The site is considered to lie within the settings of both of these heritage assets.

4.5A public footpath - Newton Abbot Footpath 5 – runs approximately north-south across the main axis of the proposed road, adjacent to the east end of the application site.

5 SITE HISTORY

17/01542/MAJ (18/00035/NONDET) - Mixed use (hybrid application) proposal involving: Outline - Mixed use development comprising up to 1,210 dwellings (C3), a primary school (D1), up to 12,650 sq. m of employment floorspace (B1), two care homes (C2) providing up to 5,500 sq. m of floorspace, up to 1,250 sq.m of community facilities (D1), a local centre (A1/A3/A4/A5) providing up to 1,250 sq. m of floorspace, open space (including play areas, allotments, MUGA), and associated infrastructure. (Means of Access to be determined only) Full - Change of use of existing agricultural buildings to hotel (C1), restaurant (A3) and bar/drinking establishment (A4) uses, involving erection of new build structures, construction of an access road and parking, plus other associated conversion and minor works. – ALLOWED on APPEAL (3rd June 2020) by the (then) Secretary of State.

22/00810/MAJ - Approval of reserved matters pursuant to outline planning permission 17/01542/MAJ for residential development of 236 dwellings (Use Class C3), public open space including allotments and children's play space, a surface water attenuation feature and associated landscaping and infrastructure - PENDING CONSIDERATION.

23/00597/MAJ - Approval of reserved matters (appearance, layout, scale and landscaping) for a section of road of the approved development in accordance with Condition 1 of outline permission 17/01542/MAJ – PENDING CONSIDERATION.

23/01310/MAJ - Reserved matters application, pursuant to outline planning permission 17/01542/MAJ, for the construction of 86 dwellings (Parcel 2.2 and Parcel 2.3), public open space and children's play space, pedestrian and vehicular links and associated landscaping and infrastructure- PENDING CONSIDERATION.

24/00220/MAJ Reserved matters application pursuant to outline planning permission 17/01542/MAJ for the construction of 150 dwellings (Phase 2.1) (approval sought for the access appearance, landscaping, layout and scale) – PENDING CONSIDERATION.

17/01542/COND1 - Discharge of outline Condition 6 (masterplan and design code) on planning permission 17/01542/MAJ. – APPROVED (23rd June 2023)

17/01542/COND2 - Discharge of outline Condition 5 (phasing plan) on planning permission 17/01542/MAJ. – APPROVED (21st December 2023)

17/01542/COND3 – Partial discharge of outline Condition 18 (archaeological work) on planning permission 17/01542/MAJ – APPROVED (28th December 2022)

17/01542/COND4 – Partial discharge of outline Condition 19 (geotechnical assessment) on planning permission 17/01542/MAJ – APPROVED (14th February 2023)

17/01542/COND5 - Discharge of full Conditions 3 (drainage report), 11 (highways), 13 (CEMP), 15 (arboricultural report), 16 (archaeological report), 17 (contamination report) & 19 (ecological mitigation) on planning permission 17/01542/MAJ – APPROVED (24th May 2023)

17/01542/COND6 – Partial discharge of outline Condition 9 (Low emissions strategy) on planning permission 17/01542/MAJ – APPROVED (9th January 2024)

17/01542/COND7 - Discharge of outline Condition 10 (surface water drainage strategy) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND8 - Discharge of outline Condition 17 (partial - tree survey) on planning permission 17/01542/MAJ – APPROVED (11th January 2024)

17/01542/COND9 - Discharge of outline Condition 14 (CEMP) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND10 – Discharge of outline Condition 12 (external lighting) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/COND11 - Discharge of outline Conditions 16 and 17 (tree and hedge protection) on planning permission 17/01542/MAJ – PENDING CONSIDERATION

17/01542/AMD1 - Non material amendment (adjustment to wording of Condition 6) to planning permission 17/01542/MAJ – WITHDRAWN

17/01542/AMD2 - Non material amendment (adjustment to wording of Condition 6 masterplan and design code) to planning permission 17/01542/MAJ – APPROVED (1st July 2022)

17/01542/AMD3 - Non-material amendment (adjustment to wording of Condition 25 custom and self-build design code) to planning permission 17/01542/MAJ – APPROVED (23rd October 2023)

17/01542/AMD4 - Non-material amendment (adjustment to wording of Condition 4) to planning permission 17/01542/MAJ- APPROVED (8th January 2024)

6 PLANNING CONSIDERATIONS

The extent to which the submission accords with the outline part of the hybrid permission.

6.2Condition 6 (Masterplan and Design Code) required that a Masterplan and Design Code should be formulated broadly in accordance with the Design and Access Statement, the outline permission’s Illustrative Masterplan (Ref: 141204I 02 02 k), and the Parameter Plan 141201 P01 Rev B. Such Masterplan and Design Code were the subject of application ref. 17/01542/COND1, and they were approved on 23rd June 2023. The condition requires that any application for the approval of reserved matters shall comply with the approved Design Code.



Figure 4: Illustrative Masterplan from the outline (extract).

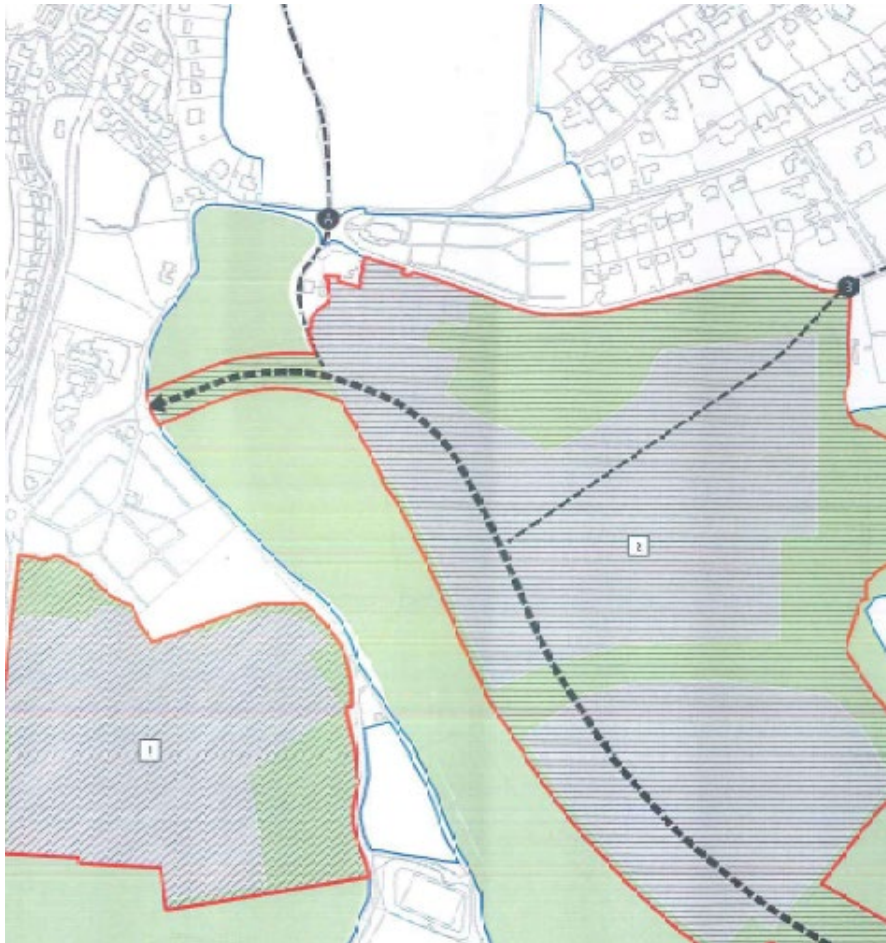


Figure 5: Parameter plan from outline (extract).



Figure 6: Approved Design Code Masterplan (extract).

6.3 It can be seen from the above plans that the route of the section of the link road that is the subject of the current application is broadly consistent across the plans.

6.4 Subject to the further analysis (below), in the light of the relationship of the submission to the approved Design Code masterplan it is considered that the reserved matters as here applied for do accord with the requirements of the outline part of the hybrid permission.

Layout

6.5 Layout is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 as *the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.*

6.6 The layout has been assessed by officers against the considerations of Building for a Healthy Life, as embedded in the National Planning Policy Framework December 2023 (the NPPF) at para 138. The submission scores highly in this regard. In particular the layout of the scheme would:

- Invite trips made by bicycle
- Add to local distinctiveness through planted areas
- Create a memorable entrance experience; and
- Feature street trees

6.7 It is considered that the layout positively responds to the existing topography and vegetation of the site, with the minimum of adverse intervention.

6.8 The provision of 6 parallel parking spaces on the road has attracted adverse comment. Conversely, it is considered that these would be a benefit to the scheme, facilitating parking for recreational walkers wishing to connect to the adjacent public footpath network.

6.9 Lastly the layout would be both legible and permeable, in a manner conducive to cycling and walking. It is considered that the details relating to layout accord with TDC LP Policies S2 and NA3; and NANDP Policies NANDP2, NANDP4,

Access (within the site)

6.10 *Access - the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means*

the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.

- 6.11** As discussed above, the entrance access details were approved at the outline stage, including their impact upon the existing vegetated margin.
- 6.12** The 'internal' highway as here applied for accord with those of the design and access statement, and the approved Design Code. In particular, the carriageway of the road is flanked by both a 2m wide footway and a 3m wide cycle path, each separated by a vegetated margin as shown on lateral section plan 959 04A.
- 6.13** Rather than providing for Newton Abbot Footpath 5 to cross the road at a skewed angle, a minor diversion is proposed so as to facilitate a perpendicular, and indeed safer crossing, as shown on plan 959 03F. This is considered a benefit. The applicant will need to apply for a footpath diversion under separate legislation, i.e. s119 of the Highway Act 1980.
- 6.14** As such, it is considered that the scheme aligns well with the thrust of adopted local plan Policy S9 (Sustainable Transport) in guiding future occupants away from dependence upon private motor cars, and instead towards cycling and walking as transport modes of choice.

Appearance (inc. heritage)

- 6.15** *Appearance- the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour, and texture.*
- 6.16** Mindful of the site's location within the settings of both the grade I listed Parish Church of St Mary the Virgin and the nearest part of the Wolborough Hill Conservation Area to the north-east, consideration must be given to the impact of materials and texture of the development (as above). Such control is able to be exerted through Condition 15 (Highways details) attached to the outline permission.
- 6.17** The comments of Historic England are noted – but they must be seen in the context of the allowance of the appeal by the Secretary of State. The analysis in their decision (paras 20, 23 and 24) with regard to the heritage impacts of wider scheme is noted and concurred with for this small phase, i.e., that the appearance

of the road would have a neutral impact upon the character and appearance of the Wolborough Hill Conservation Area. Similarly, it is considered that the appearance of the road within the setting of the church would have less-than-substantial harm on that asset. This harm will be returned to in the discussion of the planning balance below.

Landscaping

6.18 Landscaping- *the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.*

6.19 The following trees would be retained and are shown on submitted landscaping plan 959 03F, Common Oaks T115 and T116 as indicated on the tree survey plans as approved under reference 17/01542/COND8 - both Category A, standing to the north of the entrance onto Old Totnes Road would be retained. Similarly Common Oak T112 (Category B) to the south of the entrance would also be retained.

6.20 Common Oak T27 (Category A) standing in the mouth of the approved entrance would have to be felled in order to facilitate the development in line with approved plan 4035 010 Rev. D of the outline permission. This harm was considered by the Inspector in her report to the Secretary of State.

6.21 Conversely, in terms of new planting, Landscaping plan 959 03F indicates that 17 new trees would be planted to line the road, together with approx. 350m of Devon hedgebank. Details of the trees and of the hedgebank to be planted have been supplied. These include (trees) hazel, beech, whitebeam, lime and (disease-resistant) elm; and (hedging) blackthorn, hawthorn, dogwood, holly etc. It is noted that the landscaping details meet with the approval of the Council's Biodiversity officer.

6.22 Details of the materials for the hard landscape features as referred to within the Key on plan 959-03F are the subject of Condition 15 attached to the outline.

Biodiversity

6.23 The environmental impact of the overall development proposal was considered at the hybrid (outline) stage with reference to the submitted environmental statement. Impacts on levels of biodiversity through Conditions 7 (Ecological

Mitigation Strategy) and 8 (Landscape and Ecology Implementation and Management Plan). The positive comments of the Biodiversity Officer are noted.

6.24 With regard to the recently introduced requirement for assessment using the DEFRA biodiversity net gain metric, as the hybrid permission pre-dates the former's introduction, the requirement does not apply in this instance.

6.25 To conclude, it is considered, subject to the controls as specified within the relevant conditions attached to the hybrid permission, that the proposal would accord with development plan policy and national guidance with regard to biodiversity.

Habitat Regulations Assessment/Greater Horseshoe Bats

6.26 The site lies within the Landscape Connectivity Zone of the South Hams Special Area of Conservation (SAC). As part of the assessment of these reserved matters attention has had to be given to amending the design so as to ensure that no harm to Greater Horseshoe Bats would result.

6.27 For the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) Teignbridge District Council has consulted Chrissy Mason MSc MCIEEM, Lead Planning and Technical Ecologist of Burton Reid Associates.

6.28 She is of the view that, subject to the approval of an appropriate lighting scheme prior to installation being in place in accordance with discharge of 17/1542/MAJ Condition 12 (lighting), and subject to the works being undertaken strictly in accordance with the submitted document, it can be concluded that the proposals will not adversely affect the integrity of South Hams SAC alone or in combination with other plans or projects.

6.29 Natural England have been re-consulted and raise no objection.

6.30 Accordingly then, for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) Teignbridge District Council hereby adopts the conclusion dated 6th February 2024 of Chrissy Mason MSc MCIEEM, Lead Planning and Technical Ecologist, Burton Reid Associates as its own, and as Competent Authority, is able to conclude that there will be no effect on the integrity of the South Hams Special Area of Conservation (SAC).

The climate crisis/ carbon reduction

6.31 Local Plan Policy S7 - Carbon Emission Targets, seeks a reduction in carbon emissions per person in Teignbridge of 48% by 2030. Policy EN3 - Carbon Reduction Plans, requires major developments to indicate how the carbon reduction will be achieved, including consideration of materials, design, energy, water, waste, travel and so on.

6.32 The site is well-related to the services and job opportunities of the town. Cycle access separated from the carriageway would be provided both east and west. Pedestrian access would also be provided in this manner, and additionally north-south via Footpath 5.

6.33 In addition, the plans include pro-active planting, primarily for amenity impact, but which would also serve to help reduce rates of climate change.

6.34 The scheme has thus taken some opportunities to limit its impact.

Other matters

6.35 Notwithstanding the content of two of the representations received, there are considered to be no immediately adjacent neighbours for whom the approval of these reserved matters (as opposed to the approval of the hybrid permission by the Secretary of State in 2020) would have a material impact upon.

Consideration of objections

6.36 It is noted that a number of the points raised in objection do not limit themselves to consideration of the reserved matters for which approval is here being sought, but instead address the principle of the development, or express concern relating to matters controlled through conditions attached to the hybrid permission.

6.37 In particular, a concern has been raised relating to work on an intended NA3 Masterplan document, to have formed part of the local plan, having been discontinued - and that this in turn would lead to harmful, piecemeal development.

6.38 In contrast the officer view is that the 2 masterplans secured by conditions attached to each of the Wolborough Barton hybrid permission (covering the site of the current reserved matters application) and that similarly secured for the adjacent Langford Bridge permission, together serve to guide the development process across the entire NA3 allocation. All subsequent applications for reserved

matters approval are required to be assessed against these congruent masterplans.

6.39 Furthermore, additional environmental protection is secured by the numerous conditions attached to the hybrid permission which *inter alia* seek to address the climate crisis and biodiversity levels.

6.40 Notably the Wolborough Fen SSSI is protected through Condition 20 of the outline permission; a Construction Environmental Management Plan is required through Condition 14; and impacts on wildlife through Conditions 7 (Ecological Mitigation Strategy); 8 (Landscape and Ecology Implementation and Management Plan); and 12 (Lighting).

6.41 Lastly, the concern of the Town Council with regard to the breaking up of the site into small phases is noted and, to a degree, shared. It is perhaps a consequence of the hybrid permission covering such a large area, and being for such a quantum of development that it has taken a group of 4 developers, (3 working as a consortium) to take on the scheme. These practical considerations have resulted in the less-than-ideal fine-grained phasing.

Conditions

6.42 Consideration has been given to the need or otherwise for further conditions to be attached to an approval. The following are covered as below.

6.43 Matters relating to drainage are covered by outline Conditions 10 (surface water), 13 (foul drainage) and 20 as above. These are subject to detailed negotiations with both the Environment Agency and the Devon County Council Lead Local Flood Officer.

6.44 The possible need for further details relating to both hard and soft landscaping has been considered, but sufficient detail has now been supplied so that - other than the specifications for the Devonshire hedgebanks, none is necessary.

Planning balance & conclusion

6.45 There is very little, if any deviation from the approved parameter plan, Masterplan and Design Code.

6.46 Third party objections and concerns have been noted and considered throughout the determination of this application and where material, are either

adequately addressed by the proposal through the submission of amended drawings and reports, or conditioned where necessary.

6.47 A planning balance must be taken. The site is part of the wider NA3 allocation, and significant weight must be given to the approval of the reserved matters for this section of road unlocking the potential of the wider site to meet the pressing needs of the community.

6.48 On the other hand, and in line with paragraphs 205 and 208 of the NPPF, where a development proposal would lead, as here, to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against these public benefits.

6.49 Whether or not the identified less than substantial harm to the significance of the Grade-I listed St Mary the Virgin church is outweighed by the public benefits of approving the reserved matters of the development the proposal has indeed been considered. In accordance with the s.66 duty (Planning [Listed Buildings and Conservation Areas] Act 1990), considerable weight is attributed to the harm, particularly bearing in mind that the asset's high status.

6.50 However, it is considered that the benefits of approving the reserved matters for this phase of the wider site are collectively sufficient to outbalance the identified less than substantial harm to the significance of the Grade-I listed St Mary the Virgin church, particularly taking into account the importance of unlocking the delivery of the wider scheme to the future growth and economic prosperity of the community. It is considered that the balancing exercise under paragraph 208 of the NPPF is therefore favourable to the proposal, and that these reserved matters should be approved.

7 POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033 (2014)

NA3 Wolborough

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S3 Land for Business, General Industry and Storage and Distribution

S5 Infrastructure

S6 Resilience

S7 Carbon Reduction Plans

S9 Sustainable Transport

S10 Transport Networks
S14 Newton Abbot
WE2 Affordable Housing Site Targets
WE3 Retention of Affordable Housing
WE4 Inclusive Design and Layout
WE11 Green Infrastructure
EN1 Strategic Open Breaks
EN2A Landscape Protection and Enhancement
EN5 Heritage Assets
EN8 Biodiversity Protection and Enhancement
EN9 Important Habitats and Features
EN10 European Wildlife Sites
EN11 Legally Protected and Priority Species
EN12 Woodlands, Trees and Hedgerows

(NB: The policies of the Proposed Submission version of the emergent Local Plan 2020-2040 can as yet be given very limited weight.)

Newton Abbot Neighbourhood Development Plan 2016-2033 (June 2016)

NANDP2 Quality of Design
NANDP3 Natural Environment and Biodiversity
NANDP4 Provision of Cycle/Walkways
NANDP5 Provision of Community Facilities
NANDP11 Protection of Designated and Non-Designated Heritage Assets.

Material Considerations: National Guidance

National Planning Policy Framework (December 2023)
National Planning Practice Guidance (2014 onwards)
The National Design Guide (2019)
Building for a Healthy Life (2020)
The National Model Design Code Parts 1 and 2, (2021)

8 CONSULTTEES (Full comments are available in the online case file)

8.2The consultation responses are summarised where appropriate.

Historic England (24th August 2023)

Historic England has concerns regarding the application on heritage grounds.

These concerns relate to the strong linearity of the road within the proposed redevelopment. The council identify opportunities to avoid and minimise that impact through the design process.

We consider that in their consideration of the scheme, the council should ensure that the application meets the requirements of paragraphs 195, 199 and 200 of the NPPF.

They should also bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Historic England (12th February 2024)

The council should seek to ensure that the addition along with the associated paraphernalia creates a subservient design that does not carve a distinct feature through the landscape.

Historic England has [continued] concerns regarding the application on heritage grounds.

Natural England (10th July 2023)

We consider that without appropriate mitigation this application will have likely significant effects on the greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC), and potential significant effects on the Wolborough Fen Special Site of Scientific Interest (SSSI).

In order to mitigate these adverse effects and make the development acceptable, Natural England considers that appropriate details and mitigation should be secured by your Authority, as follows:

- External lighting details/lighting strategy as referred to in the Shadow Habitats Regulations Assessment (sHRA) – to discharge planning Condition 12 (lighting) on outline application 17/1542/MAJ.
- A strategy for sustainable surface water and ground water drainage (SUDS), to ensure that suitable surface water drainage is provided to prevent hydrological impact upon the nearby Wolborough Fen SSSI – to discharge condition 10 (surface water) on outline application 17/01542/MAJ.

Subject to compliance with the above, Natural England raises no objections to the proposals.

Natural England (1st March 2024)

I have looked at the documents and I don't think the updates would materially alter our previous response. As such we maintain our previous comments of 10 July 2023 where we raised no objections subject to mitigation.

DCC Highways (23rd November 2022)

- Highway Authority appreciates that full details will be provided as part of Condition 15 requirements.
- Blacktop to gateways of agricultural accesses rather than an 803-material required [ie a hard-wearing aggregate].
- Confirmation of 6m gateway set-backs required.
- If this section is built in isolation, then a temporary turning head would be required at the end of the road.

DCC Lead Local Flood Authority (LLFA - 29th November 2022)

- Objection to the application at this stage due to lack of details relating to surface water management and such detail is required.
[Case officer note; this has since been supplied]

TDC Biodiversity (18th January 2023)

- No objection re non-bat issues
- The landscaping proposals are welcomed.

TDC Biodiversity (19th February 2024)

The plans do not show the route, discharge point and any proposed treatment for drainage from the road beyond the red line boundary. The natural drainage of the area is within the Wolborough Fen SSSI catchment, and it is important that pollution from the road does not reach the ground water feeding the fen, or the watercourses around the fen. The road water should therefore be disposed of via drains which bypass the fen catchment system, or, if into the fen catchment system, via pollution control measures before discharge can reach the fen, ground water or watercourses around the fen.

Issues such as mitigation measures for dormice, reptiles, nesting birds and badgers is, I believe, addressed in other, overarching documents (e.g., Ecological Mitigation Strategy). I am happy with the other submitted details, including the landscaping proposed in Drawing number 959-03F.

TDC Biodiversity (27th February 2024)

Many apologies, but I realise I was mistaken in thinking that the application site drains into the Wolborough Fen SSSI catchment – I see it drains slightly to the north and into Decoy Lake instead. I therefore withdraw my comments about potential for pollution impacts on the SSSI. (And, of course, drainage matters are addressed under other Conditions which I wasn't assessing at the time.) So, looking at issues other than bats, I can confirm that I am happy with the submitted details, including the landscaping proposed in Drawing number 959-03F (with mitigation measures for protected species covered in the Ecological Mitigation Strategy).

TDC Biodiversity (Consultant, with regard to bats – 9th March 2023)

With an approved lighting scheme in place and SAC Greater Horseshoe Bat assessment and mitigation measures required on approved and proposed development within the SAC consultation area, it is concluded the proposed phase 2 link road would not adversely affect the integrity of South Hams SAC alone or in-combination with other plans or projects.

TDC Biodiversity (Consultant, with regard to bats – 6th February 2024)

Having reviewed the proposals in view of the revised red line boundary of the submitted scheme, it is considered that, with the approval of an appropriate lighting scheme prior to installation in place, in accordance with discharge of 17/1542/MAJ Condition 12 (lighting) then the conclusion that the submitted proposals will not adversely affect the integrity of South Hams SAC alone or in-combination with other plans or projects remains unchanged.

9 REPRESENTATIONS (Comments in full are available in the online case file)

9.2 Five letters of comment have been submitted raising the following planning related issues as here summarised:

- Application lacks detail in the absence of a masterplan especially in relation to Condition 15.
- Concern raised in respect of the 'abandoned' DPD for the site

- Application highlights failure to secure a site-wide approach
- Concerns regarding the proposed development and its impact on the chemistry and hydrology of the Wolborough Fen SSSI
- Concerns over increased traffic flows along Old Totnes Road, the Decoy area and the wider locality
- Concerns over impact of new link road on residential amenity of no.11 The Pinnacle
- Concerns over lack of Construction Management Plan at this stage
- Old Totnes Road to experience an unacceptable volume of construction traffic
- Pedestrian safety concerns raised
- Querying the provision of on-street parking spaces
- There would be an adverse impact on wildlife
- Expressing concern re the limitations of both the site extent and the content of this application.
- Expressing concerns that a number of conditions attached to the head permission have yet to be discharged.

10 TOWN COUNCIL'S COMMENTS

- No objection (24th November 2022.)
- Councillors raised no objection but remain very concerned at the piecemeal approach to the way this application is being considered (20th February 2024.)

11 COMMUNITY INFRASTRUCTURE LEVY

11.2 This type of development is not liable for CIL and therefore no CIL is payable.

12 ENVIRONMENTAL IMPACT ASSESSMENT

12.2 In determining the appeal for non-determination of the 'host' outline planning application considered under references 19/00239/MAJ and 18/00035/NONDET, the (then) Secretary of State took into consideration the Environmental Statement submitted with the planning application and also all of the consultation responses and representations received, in accordance with

Regulation 3 (4) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

12.3 The current application, which seeks reserved matters approval, is considered in compliance with the outline planning permission for the purposes of EIA. The need for a further EIA has therefore been “screened out” for this application as the proposals, with the mitigation secured by the Conditions and s106 Obligations as detailed within the outline planning permission and the conditions imposed, would not give rise to any significant environmental effects within the meaning of the Environmental Impact Assessment Regulations 2017.

13 HUMAN RIGHTS ACT

13.2 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.

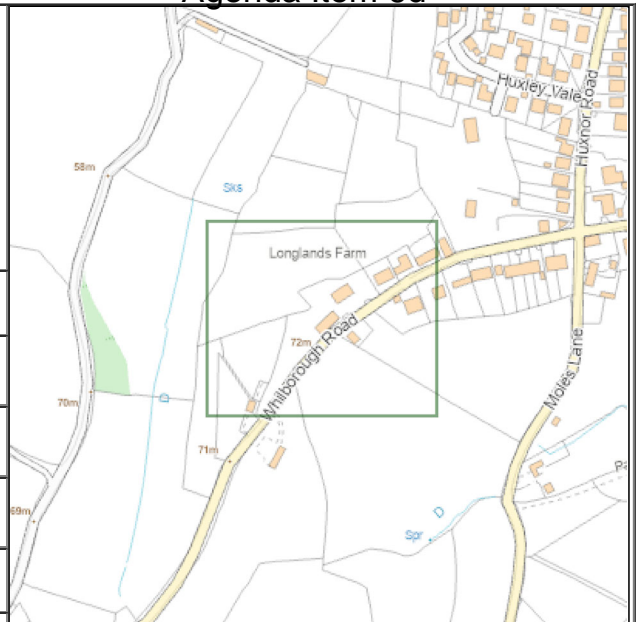
Head of Place and Commercial Services



Planning Committee Report

Chairman: Cllr Colin Parker

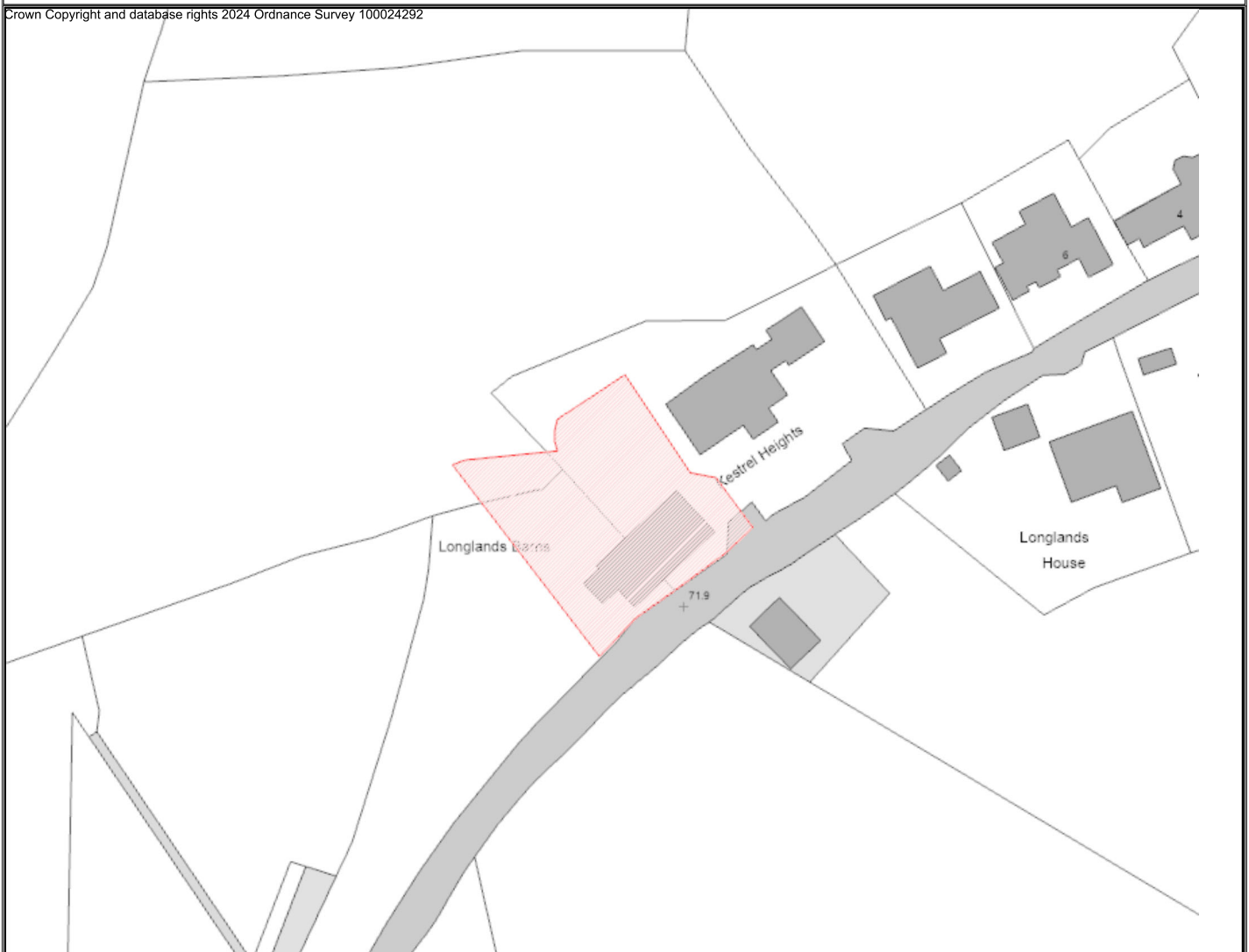
Date	19 March 2024
Case Officer	Darren Roberts
Location	Longlands Barns Whilborough Road Kingskerswell Devon TQ12 5DY
Proposal	Extension to offices, with addition of 6 car parking spaces (arranged in tandem)
Applicant	Mr P & Mrs C Bushby
Ward	Kerswell-with-Combe
Member(s)	Cllr John Radford, Cllr Jane Taylor
Reference	23/01439/FUL



[Online Details and Documents](#)

RECOMMENDATION: PERMISSION GRANTED

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1. REASON FOR REPORT

This has been called in by the Ward Member and Parish Council for the following reasons: outside the building line, not allocated in the local plan; other business premises are available.

2. RECOMMENDATION

Planning Permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of three years from the date of this permission

REASON: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:

- Location Plan AL0 01 REV A
- Block Plan AL0 01 REV A
- Proposed Plans AL 0 04 REV D

REASON: In order to ensure compliance with the approved drawings.

3. Notwithstanding the provisions of the Town Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order with or without modification) the unit shall only be occupied by businesses operating within Classes E(g)(i) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

REASON: To be in keeping with the existing use and to protect the amenity of the area.

4. Materials and finishes shall match those existing that are adjacent to the area of works unless otherwise specified on the approved drawings.

REASON: In the interests of minimising harm to the building to preserve the character of the area

5. The extension hereby permitted shall not be occupied until the parking, cycle parking, turning and circulation areas, as shown on the approved drawings, have been completed. They shall thereafter be so retained and maintained.

REASON: In the interests of sustainable development and in order to provide safe access and parking.

Additional Informative:

Teignbridge District Council has declared a Climate and Ecological Emergency and, in association with a range of public, private and voluntary organisations from across Devon, endorse the principles of the Devon Climate Declaration <https://www.devonclimateemergency.org.uk/devon-climate-declaration/>.

Therefore, the Council would strongly encourage you to include measures to reduce the carbon footprint of your development, such as higher levels of insulation, energy efficiency measures and low water usage fixtures and fittings, and to consider capturing rainwater from the roof for use in the garden. The Council would also strongly encourage you to incorporate biodiversity enhancement measures at your premises, such as bat roosting features, bird nesting boxes, hedgehog holes and insect houses, as well as flowering and fruiting trees and shrubs.

3. DESCRIPTION

The Application Site

- 3.1. The site is on Whilborough Road, on the edge of Kingskerswell towards the village of North Whilborough. There is an existing building on the north side of the road; this was originally a barn but was converted to offices some ten years ago. This building is single storey and rectangular (18 metres x 9 metres) with a small lean-to extension of 4.5 metres x 2.75 metres.
- 3.2. The building is shown to have 13 car parking spaces and has grassed areas used for outdoor seating.

The Proposal

- 3.3. This application seeks permission for removal of the small lean-to extension and provision of a larger extension to provide for further office accommodation and a meeting room. The extension is proposed to measure 11.7 metres x 7.1 metres and would therefore entail an additional 71 square metres of accommodation when considering the removal of the existing extension.
- 3.4. An additional 6 parking spaces will also be created, and these will include the provision of a disabled space and two EV charging bays. A cycle rack is also proposed.
- 3.5. The proposed building would be single storey and at the same height as the existing building (4.7 metres). It is proposed to use the same materials which comprise stonework, timber boarding and smooth render, with metal sheeting roofs.

Site History

- 3.6 07/00320/COU Change of use of barn to business use (class B1) including external alterations – REFUSED; ALLOWED ON APPEAL

07/4972/COU Change of use of barn to offices including alterations to elevations (revised scheme) – APPROVED 16.05.2008

10/02099/COU Change of use of barn to business use (class B1) including external alterations (extension of time for implementation) – APPROVED 01.09.2010

12/03281/COU Change of use of barn to business use (Use Class B1) including external alterations – APPROVED 20.12.2012

Principle of the development/ sustainability

- 3.7 The site lies just outside the settlement limit for Kingskerswell, which incorporates the majority of the residential dwellings along Whilborough Road. Policy EC3 (Rural Employment) states that in open countryside the following uses will be acceptable in principle:
- a) extensions or expansions of an existing business or employment site.
 - b) diversification of a farm
 - c) change of use or conversion of a permanent and soundly constructed building.
 - d) sites adjoining a defined settlement; and
 - e) uses with a strong functional link to local agriculture, forestry or other existing rural activity.
- 3.8 The proposal meets criteria a) and also d) above. EC3 gives a number of caveats to the above, including the scale of employment being appropriate to the accessibility of the site and improving the balance of jobs in the vicinity; respecting the character of the area; and conforming to other policies within the local plan.
- 3.9 The site is less than 1 mile from the facilities within Kingskerswell village and will provide for an additional 6 jobs within the area. This is an edge of settlement location and whilst acknowledged that most trips to the site will be by car, it will be possible to walk or cycle to the site from Kingskerswell.
- 3.10 The Parish Council in their objection refer to policy EC1. This refers to proposals within settlement limits. It does not state that only proposals within settlement limits will be acceptable; EC3 clarifies the situation in the countryside, i.e. outside of settlement limits.
- 3.11 The proposal therefore meets the policy requirement of the local plan and it is considered that the principle of development is acceptable.

Impact upon the character and visual amenity of the area

- 3.12 The design is intended to match the existing office building which includes natural stone, timber boarding and some render. The scale and materials are in keeping with the immediate area and it is not therefore considered that there is an objection raised in terms of visual/ design terms to the proposal.

Impact on residential amenity of surrounding properties

- 3.13 The proposal is single storey and situated away from any nearby residential properties, with the exception of Kestrel Heights, which is also in control of the applicant. The extension is situated on the other side of the existing premises. It will therefore have no impact on surrounding residential properties.

Highway Matters

- 3.14 It is proposed to increase the number of parking spaces by 6, by extending the existing spaces. This would entail the provision of tandem parking spaces, which is not ideal, but given that the premises will be within the same interest this can be controlled and would result in a minimal increase in the size of the parking area. It is proposed to provide a space for disabled parking, two spaces where electric vehicles can be charged, and a bicycle parking stand.
- 3.15 The existing access is suitable for the additional vehicles and no concerns have been raised from the highway authority.
- 3.16 Therefore there are no highway, parking or access objections to the proposal, subject to the parking plan as submitted being approved.

Other matters

- 3.17 Representations state that there are other businesses within the area which are vacant, and these should be used in preference to a new extension to existing premises. These businesses are not in the control of the applicant, and it is considered reasonable to permit expansion of existing premises which allow for additional employment in rural areas.

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

S22 Countryside

EC3 Rural Employment

4.2 National Planning Policy Framework

4.3 National Planning Practice Guidance

5. CONSULTEES

County Highways Officer

5.1 Received 6th September 2023

There is no change in the existing access arrangements.

The Highway Authority has no objections in principle.

6. REPRESENTATIONS

None Received

7. PARISH COUNCIL/ WARD MEMBER'S COMMENTS

- 7.1. Kingskerswell Parish Council Planning Committee object to the proposal which against Policy EC1: Business Development of the Teignbridge Local Plan 2020-2040 and if recommended for approval, request that it be 'called in'.
- 7.2. Councillor Jane Taylor: "I would like to call this in to planning if you are recommending approval. This is situated in a village lane of fields and residential houses. I am unsure how (this) ever got given permission for a business premises, which they then converted to residential and built further business premises on agricultural land! It is outside the building line and further business premises in this area are not on the local plan. If they wish to expand there is the Oak Tree Business Park literally around the corner. There is planning for business parks at both Langford Bridge and Kerswell Gardens. A site visit would be useful."

8. COMMUNITY INFRASTRUCTURE LEVY

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

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.

10. CARBON/CLIMATE IMPACT

This is a small extension and whilst it is acknowledged that there will be an increase of vehicle movements in a rural area this proposal would also secure local jobs, and measures negotiated during the application including the provision of EV charging points and cycle parking will encourage sustainable travel. Whilst not a requirement, it will be encouraged that the new extension could provide opportunities for bat and bird boxes given the location within the landscape connectivity zone.

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.

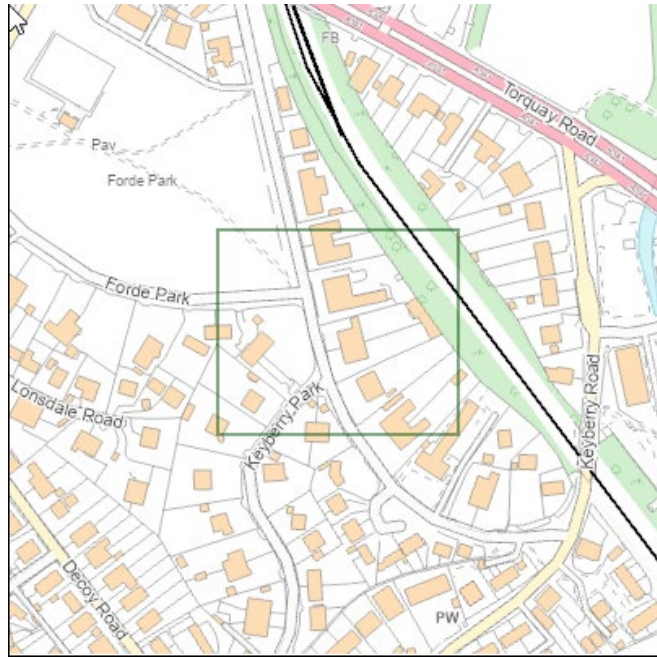
Head of Place and Commercial Services

TEIGNBRIDGE DISTRICT COUNCIL

<p>PLANNING COMMITTEE ENFORCEMENT REPORT</p> <p>CHAIRMAN: Cllr Colin Parker</p>	
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DATE:	19 March 2024	
REFERENCE NO:	22/00127/ENF	
SITE:	Hawthorn House, 6A Forde Park, Newton Abbot	
ENFORCEMENT ISSUE:	Unauthorised replacement windows	
REASON FOR COMMITTEE CONSIDERATION:	Officers have decided to take enforcement action and a Member has challenged that decision (<i>see Teignbridge District Council Enforcement Policy dated 30 June 2017, Appendix B, paragraph B3</i>)	
RECOMMENDATION:	<p>It be resolved that:</p> <p>i) An ENFORCEMENT NOTICE be issued; and</p> <p>ii) In the event of the notice not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution.</p>	
WARD MEMBERS:	Cllr Janet Bradford Cllr Liam Mullone	College





1. THE ALLEGED BREACH OF PLANNING CONTROL & ENFORCEMENT INVESTIGATION FINDINGS

1.1 Hawthorne House is one of a number of residential units that were created within two large, two storey Victorian villas that were previously used as one residential care home. The key facts in this case are as follows:

- The site is located within the Forde Park Conservation Area.
- Works were carried out to replace the original timber windows with new uPVC ones without planning permission.
- A planning application (reference 22/00897/HOU) for the retention of replacement ground floor and first floor windows. However, this was refused on 22 June 2023.

2. BACKGROUND & CONTEXT

2.1 In April 2022 the Council received a complaint that works had been carried out to remove the existing timber windows at Hawthorne House, 6A Forde Park, Newton Abbot and replace them with uPVC ones. As it was considered to be the introduction of a new material and the property was viewed as a flat planning permission was required for the works. As such the owner was contacted and advised to remedy the breach.

2.2 To determine whether the works carried out were acceptable the owner submitted a planning application (reference 22/00897/HOU) for the

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retention of replacement ground floor and first floor windows. However, as the windows were considered to be unacceptable the application was refused on 22 June 2023. Since then, no appeal has been submitted and no works have been carried out to remove the unauthorised uPVC windows. As such to remedy the planning breach it is necessary to serve an Enforcement Notice.

- 2.3 To progress the matter a delegated Enforcement Report was prepared and sent to the Ward Councillors setting out why enforcement action should be taken. However, there was a request not to take any further action. For this reason, a report has been prepared for the Planning Committee to consider the proposed course of action.

3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 It was considered that the works carried out to replace the timber windows with uPVC ones required planning permission. As no planning permission has been granted it is necessary to consider enforcement action to remedy the breach. As the windows installed are considered unacceptable due to their design and the materials used, they result in the loss of important historic character in the Forde Park Conservation Area to the detriment of both the host property and the surrounding area.
- 3.2 In this instance the windows installed are contrary to Policies S1 (Sustainable Development Criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 as well as the guidance contained within the Newton Abbot Forde Park Conservation Management Plan.
- 3.3 The Policies of the Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Policy Guidance which has an emphasis on ensuring good design and protecting historic assets. It is considered that in this instance the unauthorised windows fail to uphold the principles of the NPPF for the reasons as set out above.
- 3.4 Officers consider enforcement action is necessary and expedient to ensure the unauthorised windows are removed. This is considered to be expedient and in the public interest in order to support and maintain the delivery of the Strategy of our Local Plan to avoid inappropriate development and maintaining good design which protects the character and appearance of the area.

4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve:

TEIGNBRIDGE DISTRICT COUNCIL

To serve an Enforcement Notice to:

- i) Remove the unauthorised windows.

The compliance period for both is recommended to be six months.

In the event of the Notice not being complied with, authorisation is given to take action as necessary including proceeding to prosecution.

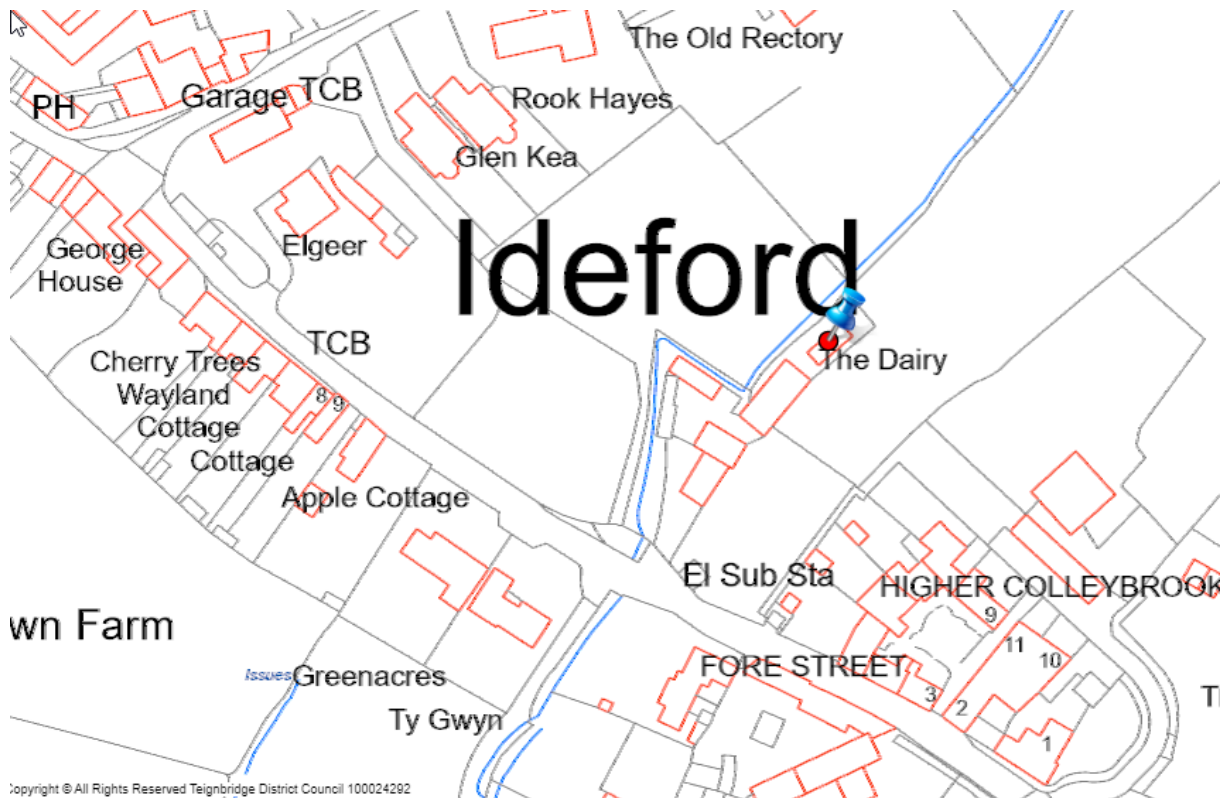
5 HUMAN RIGHTS ACT

- 5.1 The recommendation 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 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.

TEIGNBRIDGE DISTRICT COUNCIL

<p>PLANNING COMMITTEE ENFORCEMENT REPORT</p> <p>CHAIRMAN: Cllr Colin Parker</p>	
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DATE:	19 March 2024	
REFERENCE NO:	17/00006/ENF	
SITE:	Land at Lower Colleybrook Farm, Ideford	
ENFORCEMENT ISSUE:	Unauthorised siting of a residential mobile home	
REASON FOR COMMITTEE CONSIDERATION:	The proposed enforcement action has the potential to render a person homeless (<i>see TDC Constitution, Section 6, Schedule 6, paragraph 5.1</i>)	
RECOMMENDATION:	<p>It be resolved that:</p> <ul style="list-style-type: none"> i) An ENFORCEMENT NOTICE be issued; and ii) In the event of the notice not being complied with, authorisation be given to take further action as necessary including proceeding to prosecution. 	
WARD MEMBERS:	Cllr Keeley Gearon Cllr Ron Peart	Kingsteignton East



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1. THE ALLEGED BREACH OF PLANNING CONTROL & ENFORCEMENT INVESTIGATION FINDINGS

- 1.1 Lower Colleybrook Farm is located off the main road going through Ideford and comprises a number of agricultural buildings. The current enforcement case relates to the siting of a mobile home that has been sited on the land. The key facts in this case are as follows:
- A mobile home has been sited on the land for residential purposes without planning permission.
 - A Caravan / mobile home has been on site for a number of years but the residential use only started in around 2016 so would not be immune from enforcement action.
 - There is no lawful reason for the mobile home to be sited on the land for residential purposes and the Council must therefore consider whether enforcement action is expedient to remedy the planning breach.

2. BACKGROUND & CONTEXT

- 2.1 In May 2015 the Council received a complaint that a mobile home had been sited on land at Lower Colleybrook Farm. From an initial investigation which included a site meeting with the owner, it was clear that a mobile home had been brought onto the land and placed behind the existing agricultural buildings. However, at the time the mobile home was being used as a restroom in association with the permitted agricultural use of the land. As there was no evidence of any residential use no further action was taken.

TEIGNBRIDGE DISTRICT COUNCIL

- 2.2 In January 2016 a second complaint was received alleging the mobile home was being used for residential purposes. Following contact with the owner, it was claimed that a person was visiting the site late in the evening and early in the morning to attend to a dog that was being kept on the land. The owner denied any residential use was occurring. As such the person who contacted the Council was requested to monitor the situation and contact the Council if they had any evidence to show a residential use was occurring.
- 2.3 In January 2017 a further complaint was received that the mobile home that had been sited on the land was being occupied for residential purposes. In this instance, following contact with the owner, it was clear that their father was using the mobile home for residential purposes. At the time the owner explained that they were looking at having some of the existing barns converted to dwellings. At the time there was an application (reference 16/03379/NPA) for Prior Approval under Part 3 Class Q (a) and (b) and paragraph W of the GPDO for change of use of two agricultural buildings from agricultural use to two dwellings. As such the matter regarding the use of the mobile home was put on hold.
- 2.4 Although the application for Prior Approval was refused, further Prior Approval applications were submitted of which were either withdrawn or refused and, in some cases, appeals dismissed. However, in 2021 an application (reference 21/01638/NPA) for Prior Approval under Part 3 Class Q (a) and (b) paragraph W of the GDPO for change of use of an agricultural building into one residential dwelling was approved. Following this planning permission (reference 21/01628/FUL) was granted for a new dwelling and associated works.
- 2.5 Following the initial complaint, no further complaints were received about the mobile home until March 2021. At that time the owner was contacted, and they confirmed that their father is still living in the mobile home. However, it was envisaged that once the building works had been completed the mobile home would be moved into the curtilage of the new dwelling and used ancillary to it. Providing this was to occur no planning permission would be required.
- 2.6 In early 2022 works started on the construction of the new dwelling, and it appears that this has now been completed and occupied. However, it is clear that the unauthorised mobile home has not been moved and remains on agricultural land and used for residential purposes. From more recent correspondence with the owner, it is still proposed to move the mobile home but there have been health issues with their father which have delayed the matter.
- 2.7 Although the owner still wishes to resolve the matter it is still not clear when this will occur. However, as the matter has been ongoing for a considerable time, and the siting of the residential mobile home on agricultural land is contrary to policies in the adopted local plan, it is now necessary to instigate

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enforcement action to ensure the mobile home does not become established over time.

3. PLANNING CONSIDERATIONS FOR ENFORCEMENT ACTION

- 3.1 Although it appears that a mobile home has been sited on the land for a number of years, it does not appear that it has been continuously used for residential purposes for the necessary ten years to be established.
- 3.2 In this instance the mobile home is sited on land outside any settlement limit and no evidence of any essential need to have a mobile home on the land for residential purposes has been provided. As such the stationing of the mobile home on the land is considered contrary to Policies of the Teignbridge Local Plan 2013 – 2033.
- 3.3 The Policies of our Local Plan reflect the Core Principles as set out under the Government's National Planning Policy Framework (NPPF) and the National Planning Policy Guidance which has an emphasis on sustainable development and focusing new residential development into settlements and other sustainable locations. It is considered that in this instance the unauthorised use fails to uphold these principles, particularly those in Paragraph 78 of the NPPF for the reasons as set out above.
- 3.4 Officers consider enforcement action is necessary and expedient to ensure the unauthorised use ceases and the unauthorised mobile home is removed from the land. This is considered to be expedient and in the public interest in order to support and maintain the delivery of the Strategy of our Local Plan to avoid the inappropriate siting of residential uses in the countryside without good reason and to maintain wider principles of sustainability and good design whilst protecting the character and appearance of the area.

4 RECOMMENDATION

- 4.1 The Committee is recommended to resolve:

To serve an Enforcement Notice to:

- i) cease using the mobile home for residential purposes, and
- ii) remove the mobile home from the land.

The compliance period for both is recommended to be six months.

In the event of the Notice not being complied with, authorisation is given to take action as necessary including proceeding to prosecution.

5 HUMAN RIGHTS ACT

TEIGNBRIDGE DISTRICT COUNCIL

- 5.1 The recommendation 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 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.

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TEIGNBRIDGE COUNCIL DISTRICT

PLANNING COMMITTEE

CHAIRMAN: Cllr Colin Parker

DATE:	19 March 2024
REPORT OF:	Head of Place and Commercial Services
SUBJECT:	Appeal Decisions received during previous calendar month

23/00013/REF **BOVEY TRACEY** - Unit 1 King Charles Business Park
 Appeal against the refusal of 21/02681/FUL: Retention of use of light industrial building (Class E) as educational use (Class F1) and insertion of new windows to first floor of side elevation

Appeal Allowed. Delegated Decision

23/00015/REF **SHALDON** - Flat 1 27 Fore Street
 Appeal against the refusal of 19/00213/FUL: Change of use of ground floor shop to one residential flat

Appeal Dismissed. Delegated Decision

23/00034/REF **KENN** - Goosemoor Kennford
 Appeal against the refusal of 22/02349/FUL: Demolition of barn and creation of dwelling

Appeal Dismissed. Delegated Decision

23/00046/NONDET **KINGSKERSWELL** - Fluder Heights 27 Fluder Hill
 Appeal against the non-determination of application 23/01035/HOU - Proposed roof alterations including loft conversion and new porch

Appeal Dismissed. Delegated Decision

23/00051/REF

EXMINSTER - Westhaven Milbury Farm

Appeal against the refusal of 22/02108/VAR: Variation of condition 10 on planning permission 20/01299/FUL (Demolition of existing bungalow and garage and construction of four dwellings, garages, associated parking and infrastructure) to amend boundary structure

Turned Away. Delegated Decision

23/00060/FAST

DAWLISH - 1 Southdowns Road Dawlish

Appeal against the refusal of planning application 23/00487/HOU - Retention of fence to front garden (height to be amended)

Appeal Allowed. Delegated Decision

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

TEIGNBRIDGE COUNCIL DISTRICT

PLANNING COMMITTEE

CHAIRMAN: Cllr Colin Parker

DATE:	19 March 2024
REPORT OF:	Business Manager – Strategic Place
SUBJECT:	Major variation applications approved in previous calendar month

There were no such applications approved during the period.

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