

E-mail:  
democraticservices@teignbridge.gov.uk

3 May 2024

## PLANNING COMMITTEE

A meeting of the **Planning Committee** will held on **Tuesday, 14th May, 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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**Please Note:** Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. This meeting will be livestreamed on Public-i. By entering the meeting's venue you are consenting to being filmed.

## **Public Access Statement**

### **Information for the Public**

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

Please email [democraticservices@teignbridge.gov.uk](mailto:democraticservices@teignbridge.gov.uk) or phone 01626 215112 to request to speak by **12 Noon** two clear working days before the meeting. This will be on a Thursday before the meeting if the meeting is on a Tuesday.

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

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

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

### PART I

#### (Open to the Public)

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

- a) 24/00328/FUL - Broadmeadow Sports Centre, Teignmouth (Pages 9 - 14)
  - b) 22/01597/FUL - Alexandra Cinema, Newton Abbot (Pages 15 - 38)
  - c) 22/01598/LBC - Alexandra Cinema, Newton Abbot (Pages 39 - 58)
  - d) 23.02157.FUL - Land Off Idestone, Ide (Pages 59 - 70)
7. Appeal Decisions - to note appeal decisions made by the Planning Inspectorate.  
(Pages 71 - 72)
8. S73 Major Decisions Summary (Pages 73 - 74)

**For Information - Upcoming Site Visit Dates**

To Be Confirmed

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**PLANNING COMMITTEE****16 APRIL 2024****Present:**

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

**Members in Attendance:**

Councillors P Parker

**Apologies:**

Councillors Buscombe and Goodman-Bradbury

**Officers in Attendance:**

Trish Corns, Democratic Services Officer  
Paul Woodhead, Head of Legal Services & Monitoring Officer  
Sim Manley, Interim Head of Development Management  
Anna Holloway, Senior Planning Officer  
Christopher Morgan, Trainee Democratic Services Officer

**15. MINUTES**

It was proposed by Councillor Nutley and seconded by Councillor Bullivant 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.

**16. 23/00936/MAJ MATFORD HOME FARM, MATFORD**

The Principal Planning Officer presented the application to the Committee. She provided an update regarding a letter of comment received on behalf of the promoter of the residential element at Peamore in emerging local plan allocation EE2. This letter had come in after publication of the agenda. Neither the landowner nor the promoter of this site support the use of the residential land as a potential location for the facility, they consider the site to be unsuitable for such a facility in physical and environmental terms and it would reduce residential yield and potentially impact on site viability. They have confirmed that their

## Planning Committee (16.4.2024)

representation relates only to the land within the policy EE2 allocation outside West Exe Business Park and its associated allocation.

The Chair read out comments from the Public Speaker, Objector who was unable to attend due to a traffic incident on the morning of the committee. It raised the following points:

- Loss of housing location
- Does not conform with Local Plan

Public Speaker Supporter – Spoke on:

- Low value area
- Obscured view
- Landscape proposal reduces visual impact
- Biodiversity aids

Second Public Speaker, Supporter – Spoke on:

- Weight must be given to proposed location
- The applicant site review undertaken for alternate sites did not support their use
- Environmental concerns of using Peamore site
- Marsh Barton site is in flood plain
- South West Exeter Housing needs infrastructure
- Impact would not cause unacceptable harm
- Decarbonisation of electricity network

Comments from Councillors during the discussion included:

- Impact on the landscape
- Powerlines could have gone underground
- Size of site larger than expected
- Possibility of using Peamore site
- Site could be used for housing supply
- Application is opposed by parish council
- Demolition of community buildings
- No loss of amenity
- Costs
- Loss of view isn't usually a reason for refusal
- Need for electric supply
- Importance of input from bodies
- Doesn't provide enhancement to entrance to Exeter
- Noise concerns

In response to the discussion Officers clarified the following:

- Members should not consider the use of other sites when determining this specific application
- The secretary of state declined to call the application in

It was proposed by Councillor Sanders and seconded by Councillor Parrott that permission be refused for the reasons set out in the report.

A vote was taken. The result was unanimously in favour of refusal.

Resolved

That permission be refused for the following reason:

1. The application site currently consists of a mix of uses and buildings and has an industrial/agricultural appearance within a rural location currently undergoing significant planned change as part of the South West of Exeter Urban Extension. The application site is identified within the South West Exeter Development Framework (2014) as Development Plan Area E1 for Mixed Use development and Community Facilities and has outline planning permission granted for such a development. Whilst the need for electricity infrastructure to serve the new dwellings at South West Exeter is acknowledged it is considered that the proposed development on the application site would result in a large, overbearing and alien structure, which by its nature is uninviting and hostile, within the landscape immediately adjacent to both existing and proposed residential properties. Whilst some attempt has been made to mitigate the impact, the depth of the landscape buffer proposed is not considered sufficient to screen a development of the size and nature proposed in such close proximity to the existing dwellings. The proposed development would not be consistent with the comprehensive approach to development as set out in policy SWE1 and the South West Exeter Development Framework and would result in significant harm to the character and appearance of the area and the amenity of both existing and future residents. The proposed development is therefore contrary to policies S1, S2 and SWE1 of the Teignbridge Local Plan 2013-2033 and the NPPF.

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

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

**18. S73 MAJOR DECISIONS SUMMARY**

The Committee noted the Major Decisions Summary Sheet.

The meeting started at 10.30 am and finished at 11.30 am.

Cllr Colin Parker  
Chair

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Planning Committee Report

Chairman: Cllr Colin Parker

<b>Date</b>	14 May 2024
<b>Case Officer</b>	Darren Roberts
<b>Location</b>	Broadmeadow Sports Centre Broadmeadow Industrial Estate Teignmouth Devon TQ14 9AE
<b>Proposal</b>	Internal refurbishment and decarbonisation proposals, including areas of replacement cladding, rendered external insulation and a relocated main entrance
<b>Applicant</b>	Mr J Shimell
<b>Ward</b>	Teignmouth West
<b>Member(s)</b>	Cllr Andy Henderson, Cllr Nina Jefferies
<b>Reference</b>	24/00328/FUL



[Online Details and Documents](#)

**RECOMMENDATION: PERMISSION GRANTED**



## **1. REASON FOR REPORT**

The Interim Head of Planning considers that the application merits oversight by the Planning Committee due to the centre being owned by the Council

## **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 documents:

- Site Location Plan 1837-P001 Rev B
- As Proposed Site Plan 1837-P100 Rev C
- As Proposed Ground Floor Plan 1837-P101 Rev L
- As Proposed First Floor Plan 1837- R102 Rev F
- As Proposed Elevations 1837- P200 Rev D

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

3. Development shall be carried out in full accordance with the Flood Risk Assessment dated January 2024, including the provision of a refuge at first floor level, use of a Flood Warning and Evacuation Plan, and signing up to the Environment Agency and Met Office warning services, for the lifetime of the development.

REASON: In order to minimize the risk to occupiers of the site in the event of flooding.

4. Prior to commencement of development, an emergence survey shall be carried out within the bat activity season of May to August, in order to establish the presence of bats within the building.

Alternatively, a close inspection of each of the multiple potential roost features shall be undertaken by a specialist ecologist and any resultant measures undertaken.

The results of the survey or inspection shall be submitted to the local planning authority and agreed in writing prior to commencement of development.

REASON: To safeguard legally protected species and in the interests of biodiversity protection, in accordance with Policy EN8 of the Local Plan.

### **3. DESCRIPTION**

#### The Application Site

- 3.1 The site is occupied by the Broadmeadow Sports Centre, a large public facility comprising a sports hall and gym, squash courts, sauna etc. The building sits close to Morrison's Supermarket and is accessed from Newfoundland Way and the adjacent industrial estate.
- 3.2 The building is comprised of three elements- the main 7-metre-high brick sports hall with a gently sloping pitched roof, atop which are solar panels on the west elevation; the slightly lower elevation to the south which is brick with plastic cladding and numerous windows; and a lower flat roofed extension joined to the west by a link.

#### The Proposal

- 3.3 The proposal is to retain most of these elements but to alter fenestration, relocate the entrance to the building from the north elevation, alter elements in the two smaller parts from brick to render, insert bat and bird boxes, and insert new signage.
- 3.4 There are also several internal changes which would result in a reconfiguration of the building and alterations such as installation of a heat pump and upgrades to the fabric of the building, however these do not require planning permission.

#### Site History

- 3.5 86/03076/FUL Solarium, sauna and bar APPROVED 28.01.1987  
14/00014/ADV Non-illuminated banner advertisement GRANTED 20.03.14

#### Principle of the development/sustainability

- 3.6 The proposal will retain and enhance the existing leisure facility, which is important within Teignmouth and the surrounding area. The alterations are proposed to increase the sustainability of the centre, changing it from a largely inefficient 1980s building powered by gas boilers to a modern building with heat pumps. It would also increase accessibility by all groups.
- 3.7 The principle is therefore supported.

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

- 3.8 Visual changes to the existing building are relatively limited. The building currently presents a large expanse of brick wall seen mainly from Morrisons and the industrial units, the main changes will see some of the brick replaced with render and the removal of some of the larger expanses of windows in the south 'wing', and addition of some smaller windows in the main part of the building.

- 3.9 The existing main roof, which is visible from the area above, will not be altered by the proposal.
- 3.10 Impact is therefore limited and largely positive.

#### Impact on residential amenity of surrounding properties

- 3.11 The premises is not located in a residential area and the proposed changes do not raise any issues of residential amenity

#### Highway matters

- 3.12 The application does not propose any alterations to the existing access and parking arrangements and therefore there is not considered to be any impact on highway safety. The existing car park is large and adequate for all users of the facility. The intention of moving the entrance is to help with signposting from the car park to the entrance and to assist those with mobility issues.

#### Land Drainage/ Flood Risk

- 3.13 A small part of the site is within the Flood Zone as indicated by the Environment Agency. This is predominantly due to a culverted watercourse which is situated in the neighbouring industrial area. Leisure facilities are classified as less vulnerable development as they do not include residential accommodation, nevertheless it is necessary to ensure that staff and visitors at the site have any risk from flooding minimised.
- 3.14 The main impact in terms of flooding is the relocation of the entrance area which discharges onto an area within the flood plain. However, the existing entrance is not within the flood zone, and this is proposed to be retained for emergency exit arrangements. The building is therefore required to provide a flood warning and evacuation plan. Risk of flood damage would need to be minimised by way of provision of flood resilient walls and flooring, raising of electrical sockets and use of the upper floors for safe refuge. These measures can be subject to a suitable condition which would not lead to an increased risk either on site or off site from flooding.

#### Lighting

- 3.15 It is proposed to add some external lighting to the new canopy over the new entrance, a combination of down lighters or wall mounted lights. The existing flood lighting at the entrance is proposed to be removed.
- 3.16 It is considered that this is a small level of change and new lighting will be LED fittings and will result in a reduction in light pollution, in line with the overall concept of the scheme.

#### Biodiversity and Ecology

- 3.17 The application is accompanied by a preliminary ecological assessment and a separate bat survey report. This has identified some features which have potential for bats to use, including a cavity pipe in an area proposed for rendering and the installation of insulation material. The initial recommendation of the survey is for an emergence survey to be carried out between May and August or a further survey such as one conducted using an endoscope to establish any presence. In addition a birds nest has been identified and therefore the survey recommends that works are undertaken outside of the bird nesting season.
- 3.18 The ecologist has raised concerns that an emergence survey has not been carried out to date. It is recommended that a condition is imposed that satisfactory surveys are undertaken prior to the works being commenced, and the agent has confirmed that this will be acceptable as a pre-commencement condition.

#### 4. **POLICY DOCUMENTS**

##### 4.1 Teignbridge Local Plan 2013-2033

S1A Presumption in Favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S7 Carbon Emission Targets

S18 Teignmouth

EN3 Carbon Reduction Plans

EN4 Flood Risk

EN8 Biodiversity Protection and Enhancement

##### 4.2 National Planning Policy Framework

##### 4.3 National Planning Practice Guidance

#### 5 **CONSULTEES (Full Responses on File)**

**TDC Biodiversity** – Bat emergence survey should be undertaken; if present mitigation, compensation and enhancement measures are required

**Environment Agency** – No response received

#### 6 **REPRESENTATIONS**

No responses received

#### 7. **TOWN COUNCIL/ WARD MEMBER COMMENTS**

7.1 **Teignmouth Town Council:** Meeting of 13<sup>th</sup> March – No Objections

7.2 **Councillor Andrew McGregor,** Adjoining Ward Member:

Should go to committee if recommending approval –

- i) Teignbridge owned property
- ii) Government Policy
- iii) Parking
- iv) Disabled Access
- v) Proposals in the Development Plan

## **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**

Whilst this is a small extension this is part of a decarbonisation project for the Council which is intended to assist in reducing carbon emissions by improving the building fabric, changing the fuel and lowering running costs. This will have a positive impact.

## **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**

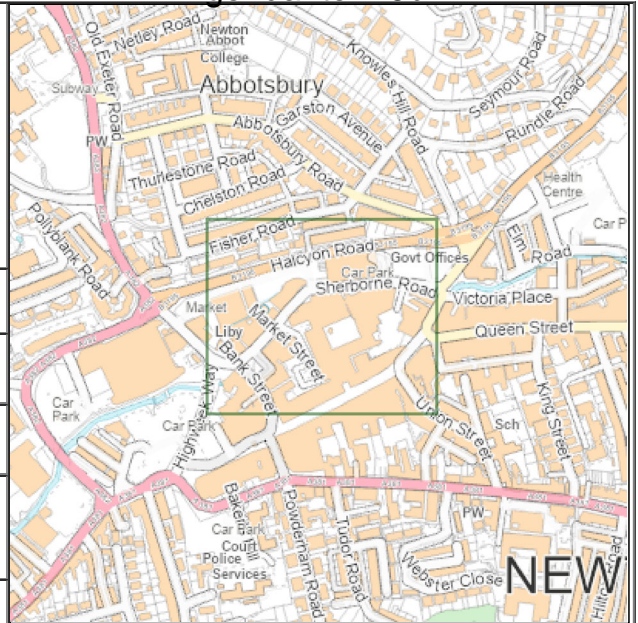




**Planning Committee Report**

**Chairman: Cllr Colin Parker**

<b>Date</b>	14 May 2024
<b>Case Officer</b>	Jennifer Joule
<b>Location</b>	Alexandra Cinema Market Street Newton Abbot Devon TQ12 2RB
<b>Proposal</b>	Restoration of single theatre auditorium, atrium extension to the south and associated alterations
<b>Applicant</b>	The Alexandra Theatre CBS
<b>Ward</b>	Bushell
<b>Member(s)</b>	Cllr Rob Hayes, Cllr Jackie Hook
<b>Reference</b>	22/01597/FUL



[Online Details and Documents](#)

**RECOMMENDATION: PERMISSION GRANTED**



## **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 granted subject to conditions addressing the following matters, the precise number and form of which shall be delegated to the Head of Development Management:

1. Standard three year time limit for commencement
2. Development to proceed in accordance with the approved drawings
3. Any works in association with or construction of the atrium extension shall not commence until a phasing plan for the development has been submitted to and approved in writing by the Local Planning Authority. The development to proceed only in accordance with the agreed phasing approach. The phased approach must secure the restoration of the single theatre/auditorium prior to or alongside the construction of the atrium-style southern extension.
4. Detailed drawings of off-site highway works to realigned footway (as requested by the Environment Agency) to be submitted to and approved in writing by the Local Planning Authority prior to any works to the atrium-style southern extension. Development to proceed only in accordance with the agreed footway design.
5. Resilience and resistance measures to protect against flood risk to be submitted to and approved in writing by the Local Planning Authority prior to any works to the atrium-style southern extension. Development to proceed only in accordance with the agreed measures.
6. Prior to occupation, flood emergency evacuation plan to be submitted to and approved in writing by the Local Planning. Plan to be made available to all occupants.
7. Development works to proceed in accordance with the precautions, measures and enhancements described in the Bat and Protected Species Survey.
8. Replacement tree planting to be secured.
9. Installation of cycle parking to be secured.
10. Programme of works to increase public understanding of Frank Matcham, prominent theatre architect from Newton Abbot. Details of which to be submitted to and approved in writing by the Local Planning Authority and thereafter implemented.
11. Proposals for the development to reduce its carbon impact to be submitted to and approved in writing by the Local Planning Authority and thereafter implemented.



12. Details of rooflights and requirement to lie flush as indicated on elevation drawings
13. Slate sample
14. Eaves details and rain water goods specifications
15. External new windows and doors specifications
16. Brick plinth sample

### **3. SUMMARY OF UPDATES FOLLOWING COMMITTEE DEFERRAL**

- 3.1. Members will recall that these two linked planning and listed building consent applications were deferred from March 2024's Planning Committee owing to the submission of late business case information by the applicant.
- 3.2. Following the Committee, further business case information has also been submitted (dated April 2024) as well as revised drawings, which removed the northern loading bay that was proposed. As a result of the additional information, the two recommended reasons for refusal previously put to Members which related to the lack of public benefit justification for the heritage harm deriving from the proposed design and the introduction of a new loading bay are no longer considered necessary. It is assumed the Theatre will make use of the existing southern loading bay which was the preferred approach of Officers. The recommendation is therefore, now one of approval subject to conditions.
- 3.3. Upon examination the business case information submitted just prior to March's Committee did not relate directly to the proposed development scheme. It related to an alternative scheme which would not entail the restoration of the theatre but instead involved the retention of the dual-screen cinema 'as is'. The Case Officer identified to the applicant the difficulty of using this business case information to assess the proposed application (which is specifically for the theatre restoration), and invited the submission of revised business case information, which has been received and is dated April 2024.
- 3.4. A summary of the latest April 2024 Business Case is as follows:
  - Two development and operational models are presented as 'Plan A' and 'Plan B'
  - Plan A: as long as there is no other cinema in Newton Abbot, the Community Benefit Society (CBS), the applicant, wish to operate the Alexandra in its current two-auditoria configuration with 'Screen 2' showing films throughout the year and the main auditorium showing films and staging live performances. The atrium extension would also be constructed. As a result, it is proposed to only partially implement the hypothetical planning and listed building consents (i.e. to only implement the atrium extension and not restore the theatre).
  - Plan B: to both restore the single theatre/auditorium and construct the atrium extension.

- It is the applicant's wish/intention (this is explicit within the Business Case) not to proceed with Plan B and therefore never to implement the single theatre restoration.
- However, the April 2024 Business Case does provide evidence that Plan B would be viable, subject to the applicant securing capital or grant funding to complete the building works to both restore the theatre and build the atrium-style southern extension.
- It is evidenced that the atrium extension is necessary to support the viability of both Plan A and Plan B.
- The single stage could be operated as either a cinema or live entertainment space. The cinema programme would be run, and the Business Case has been informed, by the Independent Cinema Office.
- The Business Case document also notes that the applicant has had early discussions with Teignbridge District Council and Scott Cinemas about the proposals for the building.
- The Business Case document notes that in 2022 The Alexandra Theatre Newton Abbot Community Benefit Society (the applicant) was granted development funding from the Architectural Heritage Fund.
- The Business Case is based on assumptions of:
  - A peppercorn rent
  - Annual programme of 184 events
  - Mixture of employed and volunteer staff
  - Estimates of food/drinks sales per visit
  - Overheads taken from similar venues including Teignmouth Pavilions
- A list of organisations is given which would be approached for further investment and the capital/grant funding necessary to undertake the building works

3.5. On the basis of the further April 2024 Business Case, Officers consider that it is possible to recommend approval of the scheme subject to conditions. The applicant has demonstrated the importance of the atrium-style southern extension to the overall operation of the mixed-used venue in financial terms. Critically, the applications are now only acceptable subject to recommended condition 3 (amongst the others) – this condition would secure phasing of the works such that the atrium extension could only be built once the restoration of the single theatre/auditorium has at least been secured and has commenced.

3.6. It is incumbent upon the Local Planning Authority to consider if developments can be made acceptable through the use of planning conditions. If planning conditions can be used to make developments acceptable, applications should be recommended for approval. In this case, Officers consider the use of this phasing condition, alongside the other conditions, will allow a recommendation of approval to be made and for the works to proceed in a manner which will bring about the benefits of the restoration alongside the atrium extension which has been shown to be necessary for the viability of the theatre's operation. Were the phasing condition not imposed, the developer could proceed to build the southern

extension (the harmful element of the scheme) without ever restoring the theatre (the acceptable part of the development). This would be unacceptable in planning terms.

## **4. DESCRIPTION**

### **Site Description**

- 4.1. 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.
- 4.2. 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.
- 4.3. 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 western 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.
- 4.4. 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.
- 4.5. Since the 1970s, a cinema has occupied the building alongside use by local theatre and performance groups, including the applicants for this proposal.
- 4.6. The building was listed at grade II in 1972.
- 4.7. 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**

- 4.8. 95/03185/LBC - Build sound-proof internal wall to form 2nd auditorium & convert pt of foyer to project – Approved 1996
- 4.9. 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
- 4.10. 24/00319/FUL Installation of a new boiler flue and new ventilation louvre to be fitted in existing window opening and 24/00320/LBC Internal alterations to form two internal plant rooms, installation of a new boiler flue and new ventilation louvre to be fitted in existing window opening – both under consideration
- 4.11. 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**

- 4.12. 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;
- 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.

- 4.13. 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. More latterly, the vehicle loading bay to the north of the site has been removed and, if approved, vehicles would need to make use of the existing loading bay to the south of the site.

### **Heritage Impact**

- 4.14. 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.
- 4.15. 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.
- 4.16. 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.
- 4.17. 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.
- 4.18. 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.
- 4.19. 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.

4.20. 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

4.21. In their consultation responses both the Victorian Society and the Theatres Trust have raised concern with the southern 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.

- 4.22. The NPPF (2023) advises that ‘great weight’ should be given by the decision maker to any heritage asset’s conservation.
- 4.23. 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.’
- 4.24. 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.

- 4.25. 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 southern extension element of the proposal is considered to conflict with this Local Plan Policy because it will obscure and reduce understanding of the significance of the asset.
- 4.26. 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.
- 4.27. 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**

- 4.28. 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.
- 4.29. 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 28<sup>th</sup> July 2023 and a further statement in January 2024 which sought to justify the extension. The unexpected submission of a Business Case was then made to the Local Planning Authority one working day prior to the Planning Committee date. To allow full consideration of this document, the items were postponed. As set out

above, the Case Officer identified concerns with the relevance of the Business Case information to the proposal (the single theatre restoration was explicitly set out to not be the intention of the applicant and did not feature in the Business Case, whilst that is both a key component of the scheme as well as heritage benefit of the proposal). As set out above in Section 3, the applicant was therefore invited to reconsider the Business Plan, and an amended document was submitted in April.

- 4.30. The key arguments presented by the applicant and agent are considered as follows.
- 4.31. 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.
- 4.32. There was no evidence to substantiate this argument originally submitted. However, the applicant has now supplied the April 2024 Business Case which does demonstrate that the café and bar would assist with revenue generation to the point that the additional floorspace would be critical to the operation of both a single or dual performance space. It is important to note that the Business Case does not evidence that the single stage restoration can be undertaken through the revenue generation of the additional floorspace in the extension. Instead, it is only the operational period (once the extension has hypothetically been constructed) which is shown to break even with the extension. External funding sources would need to be pursued to obtain the capital necessary to both build the extension and restore the single theatre.
- 4.33. 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.
- 4.34. There have been a large number of public representations submitted in support. For a full breakdown of these comments please refer to Section 7. 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.
- 4.35. 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. A condition is recommended to secure this benefit.

- 4.36. A further argument has been made by the applicant 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.
- 4.37. 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.
- 4.38. As was set out in the last Officer report to Committee (where a recommendation of refusal was made), that 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 consideration by the Council under the Future High Streets Fund), it could still provide synergies and cross-subsidisation of the theatre use. This land ownership arrangement has not changed since March. This is why it is essential to impose condition 3 to ensure appropriate phasing of works – should an alternative funding/operational model come forward linked to the Council's wider land holding, the single theatre restoration could still take place but the harmful southern extension may no longer be necessary.
- 4.39. 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. The deliverability of the scheme is therefore possible but would require the applicant to overcome this further hurdle which falls outside of the control of the planning system.
- 4.40. Drawing these arguments together, and contrary to the recommendation to March's Committee, Officers consider that there are public benefits which should be given weight in the planning balance. These public benefits are considered sufficient to

provide the 'clear and convincing' justification that the harmful element of the proposal (the southern extension) can be permitted. The benefits include: the potential for a commercially-viable theatre to be operated from the Alexandra building in the form of a single restored stage/auditorium, 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.

- 4.41. There are factors which are overall neutral in the public benefit considerations. These are improvements for disabled access (which have not been shown to be unachievable via another design), and the wider land holding/lease renegotiation issues, which are potential barriers to the applicant's proposals but fall outside the scope of the planning system.
- 4.42. Officers consider, overall, that these public benefits are now sufficient to justify the southern extension. 'Clear and convincing' evidence (as required by the NPPF) has been presented that the bar/café facility is necessary to support the viability of the operation of the single theatre stage. It is also important to bear in mind that the Officer recommendation is subject to conditions, notably condition 3 to secure a phasing plan. (If Members consider the phasing requirement to be unnecessary for any reason, the Officer recommendation would be required to change to one of refusal.)

#### **Is it possible to weigh heritage benefits against heritage harms?**

- 4.43. 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 it is possible for this benefit to be weighed against the conservation harm in the form of the southern extension.
- 4.44. 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.
- 4.45. 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.
- 4.46. 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.

#### **Pedestrian and vehicle movement impacts**

- 4.47. The proposal entails two key changes to the exterior of the building which relate to pedestrian and vehicle movements. Members should note that this section of the

report is also different to that considered at March's Committee (when the items were deferred).

- 4.48. Firstly, to the north of the building, it is proposed to install ten cycle parking spaces (Sheffield-style stands) and two trees to replace that to be lost in association with the atrium extension.
- 4.49. 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.
- 4.50. Following the removal of the northern loading bay from the proposals, the theatre will be able to make use of the existing loading bay to the south (which is also within the Council's ownership). This is considered the preferable arrangement which will entail no loss of landscaping and make more efficient use of land.
- 4.51. 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. With the recent amendment to the scheme, the proposal is considered acceptable with regard to the development plan policies.
- 4.52. 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**

- 4.53. 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.
- 4.54. 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. These conditions are recommended above.
- 4.55. It is noted that the loss of the tree to the south of the building 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 can be secured, as recommended above.

#### **Biodiversity**

- 4.56. 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**

- 4.57. Although the site lies within an Air Quality Management Area, it is considered that there would be no adverse impact on air quality arising from the development.

### **Conclusion**

- 4.58. Following the submission of the additional information and the revised drawings since March's Planning Committee, the key planning matters relating to this proposal comprise the impact of the works upon the listed building, whether the harm of such works outweighs the public benefits which could arise, and whether the use of planning conditions could allow a recommendation of approval to be made.
- 4.59. 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.
- 4.60. 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.
- 4.61. Officers are concerned with the applicant's stated intention within the Business Case documentation not to restore the single theatre/auditorium and instead build what is considered to be the harmful atrium extension without restoring the theatre. However, the most recent Business Case document appears to demonstrate that the theatre restoration can be viable if the southern extension is built. Therefore, subject to a phasing condition which requires the restoration of the theatre prior to, or alongside, the atrium extension, it would be possible to approve the application.
- 4.62. Taking these points together, officers recommend approval of the scheme subject to the above planning conditions.

## **5. POLICY DOCUMENTS**

### **5.1. 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

**5.2. 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

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

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

**5.5. 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.

**6. CONSULTEES**

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

**Extracts of detailed/final observations 21<sup>st</sup> 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.

## 6.2. **Conservation Officer – Teignbridge District Council**

### **Initial observations 15<sup>th</sup> 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.

### **6.3. 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 6<sup>th</sup> 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.

### **6.4. 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.

### **6.5. 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.

### **6.6. 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.

#### **6.7. Environment Agency 6<sup>th</sup> 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.

#### **6.8. 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.

#### **6.9. 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.

#### **6.10. Air Quality – Teignbridge District Council**

No observations

#### **6.11. 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

### **7. REPRESENTATIONS**

- 7.1. 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).

7.2. 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

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

## **8. 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.

## **9. 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.

## **10. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

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

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**

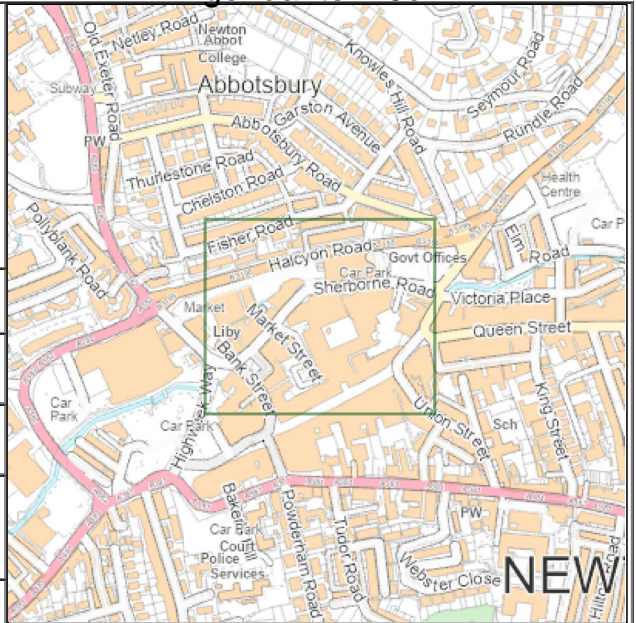
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**Planning Committee Report**

**Chairman: Cllr Colin Parker**

<b>Date</b>	14 May 2024
<b>Case Officer</b>	Jennifer Joule
<b>Location</b>	Alexandra Cinema Market Street Newton Abbot Devon TQ12 2RB
<b>Proposal</b>	Restoration of single theatre auditorium, atrium extension to the south and associated alterations
<b>Applicant</b>	The Alexandra Theatre CBS
<b>Ward</b>	Bushell
<b>Member(s)</b>	Cllr Rob Hayes, Cllr Jackie Hook
<b>Reference</b>	22/01598/LBC



[Online Details and Documents](#)

**RECOMMENDATION: CONSERVATION/LBC/LBD APPROVAL**



## **1. REASON FOR REPORT**

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

## **2. RECOMMENDATION**

Consent be granted subject to conditions addressing the following matters, the precise number and form of which shall be delegated to the Head of Development Management:

1. Standard three year time limit for commencement
2. Development to proceed in accordance with the approved drawings
3. Any works in association with or construction of the atrium extension shall not commence until a phasing plan for the development has been submitted to and approved in writing by the Local Planning Authority. The development to proceed only in accordance with the agreed phasing approach. The phased approach must secure the restoration of the single theatre/auditorium prior to or alongside the construction of the atrium-style southern extension.
4. Demolition to take place by hand (to protect the listed building)
5. Scheme for protection of existing listed building features during works
6. Proposed internal elevation drawings
7. Detailed stage extension drawings
8. Retention and repair of the balcony structure
9. Details of rooflights and requirement to lie flush as indicated on elevation drawings
10. Slate sample
11. Eaves details and rain water goods specifications
12. External new windows and doors specifications
13. Brick plinth sample
14. Programme of works to increase public understanding of Frank Matcham, prominent theatre architect from Newton Abbot. Details of which to be submitted to and approved in writing by the Local Planning Authority and thereafter implemented.

## **3. SUMMARY OF UPDATES FOLLOWING COMMITTEE DEFERRAL**



- 3.1. Members will recall that these two linked planning and listed building consent applications were deferred from March 2024's Planning Committee owing to the submission of late business case information by the applicant.
- 3.2. Following the Committee, further business case information has also been submitted (dated April 2024) as well as revised drawings, which removed the northern loading bay that was proposed. As a result of the additional information, the recommended reason for refusal previously put to Members which related to the lack of public benefit justification for the heritage harm deriving from the proposed design is no longer considered necessary. The recommendation is therefore, now one of approval subject to conditions.
- 3.3. Upon examination the business case information submitted just prior to March's Committee did not relate directly to the proposed development scheme. It related to an alternative scheme which would not entail the restoration of the theatre but instead involved the retention of the dual-screen cinema 'as is'. The Case Officer identified to the applicant the difficulty of using this business case information to assess the proposed application (which is specifically for the theatre restoration), and invited the submission of revised business case information, which has been received and is dated April 2024.
- 3.4. A summary of the latest April 2024 Business Case is as follows:
  - Two development and operational models are presented as 'Plan A' and 'Plan B'
  - Plan A: as long as there is no other cinema in Newton Abbot, the Community Benefit Society (CBS), the applicant, wish to operate the Alexandra in its current two-auditoria configuration with 'Screen 2' showing films throughout the year and the main auditorium showing films and staging live performances. The atrium extension would also be constructed. As a result, it is proposed to only partially implement the hypothetical planning and listed building consents (ie only implement the atrium extension and not restore the theatre).
  - Plan B: to both restore the single theatre/auditorium and construct the atrium extension.
  - It is the applicant's wish/intention (this is explicit within the Business Case) not to proceed with Plan B and therefore never to implement the single theatre restoration.
  - However, the April 2024 Business Case does provide evidence that Plan B would be viable, subject to the applicant securing capital or grant funding to complete the building works to both restore the theatre and build the atrium-style southern extension.
  - It is evidenced that the atrium extension is necessary to support the viability of both Plan A and Plan B.
  - The single stage could be operated as either a cinema or live entertainment space. The cinema programme would be run by, and the Business Case has been informed by, the Independent Cinema Office.

- The Business Case document also notes that the applicant has had early discussions with Teignbridge District Council and Scott Cinemas about the proposals for the building.
- The Business Case document notes that in 2022 The Alexandra Theatre Newton Abbot Community Benefit Society (the applicant) was granted development funding from the Architectural Heritage Fund.
- The Business Case is based on assumptions of:
  - A peppercorn rent
  - Annual programme of 184 events
  - Mixture of employed and volunteer staff
  - Estimates of food/drinks sales per visit
  - Overheads taken from similar venues including Teignmouth Pavilions
- A list of organisations is given which would be approached for further investment and the capital/grant funding necessary to undertake the building works

3.5. On the basis of the further April 2024 Business Case, Officers consider that it is possible to recommend approval of the scheme subject to conditions. The applicant has demonstrated the importance of the atrium-style southern extension to the overall operation of the mixed-used venue in financial terms. Critically, the applications are now only acceptable subject to recommended condition 3 (amongst the others) – this condition would secure phasing of the works such that the atrium extension could only be built once, or alongside, the restoration of the single theatre/auditorium.

3.6. It is incumbent upon the Local Planning Authority to consider if developments can be made acceptable through the use of planning conditions. If planning conditions can be used to make developments acceptable, applications should be recommended for approval. In this case, Officers consider the use of this phasing condition, alongside the other conditions, will allow a recommendation of approval to be made and for the works to proceed in a manner which will bring about the benefits of the restoration alongside the atrium extension which has been shown to be necessary for the viability of the theatre's operation. Were the phasing condition not imposed, the developer could proceed to build the southern extension (the harmful element of the scheme) without ever restoring the theatre (the acceptable part of the development). This would be unacceptable in planning terms.

## **4. DESCRIPTION**

### **Site Description**

4.1. 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.

4.2. 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.

- 4.3. 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.
- 4.4. 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.
- 4.5. Since the 1970s, a cinema has occupied the building alongside use by local theatre and performance groups, including the applicants for this proposal.
- 4.6. The building was listed at grade II in 1972.
- 4.7. 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**

- 4.8. 95/03185/LBC - Build sound-proof internal wall to form 2nd auditorium & convert pt of foyer to project – Approved 1996
- 4.9. 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
- 4.10. 24/00319/FUL Installation of a new boiler flue and new ventilation louvre to be fitted in existing window opening and 24/00320/LBC Internal alterations to form two internal plant rooms, installation of a new boiler flue and new ventilation louvre to be fitted in existing window opening – both under consideration
- 4.11. 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**

- 4.12. 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.

- 4.13. 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**

- 4.14. 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.
- 4.15. 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.
- 4.16. 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.
- 4.17. 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.
- 4.18. 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.

4.19. 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.

4.20. 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

- 4.21. 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.
- 4.22. The NPPF (2023) advises that ‘great weight’ should be given by the decision maker to any heritage asset’s conservation.
- 4.23. 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.’
- 4.24. 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.’
- 4.25. 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.

- 4.26. 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.

- 4.27. For the same reasons as those identified above, the proposal is considered to conflict with emerging Policy EN17: Heritage Assets.
- 4.28. 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**

- 4.29. 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.
- 4.30. 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 28<sup>th</sup> July 2023 and a further statement in January 2024 which sought to justify the extension. The unexpected submission of a Business Case was then made to the Local Planning Authority one working day prior to the Planning Committee date. To allow full consideration of this document, the items were postponed. As set out above, the Case Officer identified concerns with the relevance of the Business Case information to the proposal (the single theatre restoration was explicitly set out to not be the intention of the applicant and did not feature in the Business Case, whilst that is both a key component of the scheme as well as heritage benefit of the proposal). As set out above in Section 3, the applicant was therefore invited to reconsider the Business Plan, and an amended document was submitted in April.
- 4.31. The key arguments presented by the applicant and agent are considered as follows.
- 4.32. 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.
- 4.33. There was no evidence to substantiate this argument originally submitted. However, the applicant has now supplied the April 2024 Business Case which does demonstrate that the café and bar would assist with revenue generation to the point that the additional floorspace would be critical to the operation of both a single or dual performance space. It is important to note that the Business Case does not evidence that the single stage restoration can be undertaken through the revenue generation of the additional floorspace in the extension. Instead, it is only the operational period (once the extension has hypothetically been constructed) which is shown to break even with the extension. External funding sources would

need to be pursued to obtain the capital necessary to both build the extension and restore the single theatre.

- 4.34. 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.
- 4.35. There have been a large number of public representations submitted in support. For a full breakdown of these comments please refer to Section 7. 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.
- 4.36. 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. A condition is recommended to secure this benefit.
- 4.37. A further argument has been made by the applicant 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.
- 4.38. 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.



- 4.39. As was set out in the last Officer report to Committee (where a recommendation of refusal was made), that 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 consideration by the Council under the Future High Streets Fund), it could still provide synergies and cross-subsidisation of the theatre use. This land ownership arrangement has not changed since March. This is why it is essential to impose condition 3 to ensure appropriate phasing of works – should an alternative funding/operational model come forward linked to the Council's wider land holding, the single theatre restoration could still take place but the harmful southern extension may no longer be necessary.
- 4.40. 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. The deliverability of the scheme is therefore possible but would require the applicant to overcome this further hurdle which falls outside of the control of the planning system.
- 4.41. Drawing these arguments together, and contrary to the recommendation to March's Committee, Officers consider that there are public benefits which should be given weight in the planning balance. These public benefits are considered sufficient to provide the 'clear and convincing' justification that the harmful element of the proposal (the southern extension) can be permitted. The benefits include: the potential for a commercially-viable theatre to be operated from the Alexandra building in the form of a single restored stage/auditorium, 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.
- 4.42. There are factors which are overall neutral in the public benefit considerations. These are improvements for disabled access (which have not been shown to be unachievable via another design), and the wider land holding/lease renegotiation issues, which are potential barriers to the applicant's proposals but fall outside the scope of the planning system.
- 4.43. Officers consider, overall, that these public benefits are now sufficient to justify the southern extension. 'Clear and convincing' evidence (as required by the NPPF) has been presented that the bar/café facility is necessary to support the viability of the operation of the single theatre stage. It is also important to bear in mind that the Officer recommendation is subject to conditions, notably condition 3 to secure a phasing plan. (If Members consider the phasing requirement to be unnecessary for any reason, the Officer recommendation would be required to change to one of refusal.)

#### 4.44. **Is it possible to weigh heritage benefits against heritage harms?**

- 4.45. 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.
- 4.46. 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.
- 4.47. 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.
- 4.48. 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.
- 4.49. **Conclusion**
- 4.50. Following the submission of the additional information and the revised drawings since March's Planning Committee, the key planning matters relating to this proposal comprise the impact of the works upon the listed building, whether the harm of such works outweighs the public benefits which could arise, and whether the use of planning conditions could allow a recommendation of approval to be made.
- 4.51. 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.
- 4.52. 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.
- 4.53. Officers are concerned with the applicant's stated intention within the Business Case documentation not to restore the single theatre/auditorium and instead build what is considered to be the harmful atrium extension without restoring the theatre. However, the most recent Business Case document appears to demonstrate that the theatre restoration can be viable if the southern extension is built. Therefore, subject to a phasing condition which requires the restoration of the theatre prior to, or alongside, the atrium extension, it would be possible to approve the application.

- 4.54. Taking these points together, officers recommend approval of the scheme subject to the above planning conditions.

## **5. POLICY DOCUMENTS**

### **5.1. 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.

## **6. CONSULTEES**

### **6.1. Conservation Officer – Teignbridge District Council**

**Extracts of detailed/final observations 21<sup>st</sup> 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.

## 6.2. **Conservation Officer – Teignbridge District Council**

### **Initial observations 15<sup>th</sup> 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.

### **6.3. 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 the scheme and the impact upon the listed building here.

### **6.4. 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 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.

### **6.5. 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.

## **7. REPRESENTATIONS**

- 7.1. 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).
- 7.2. 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.

**8. 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.

**9. CARBON/CLIMATE IMPACT**

No detail has been provided in relation to the carbon/climate impact of the scheme. Please refer to the planning application officer report.

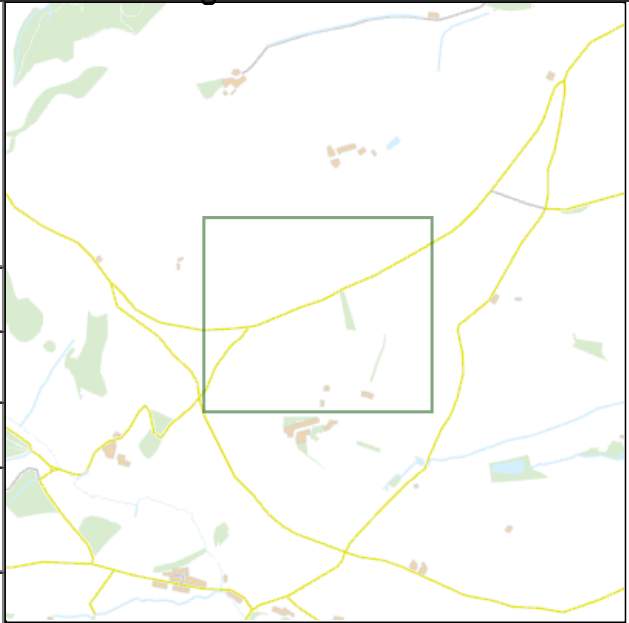
**9. HUMAN RIGHTS ACT**

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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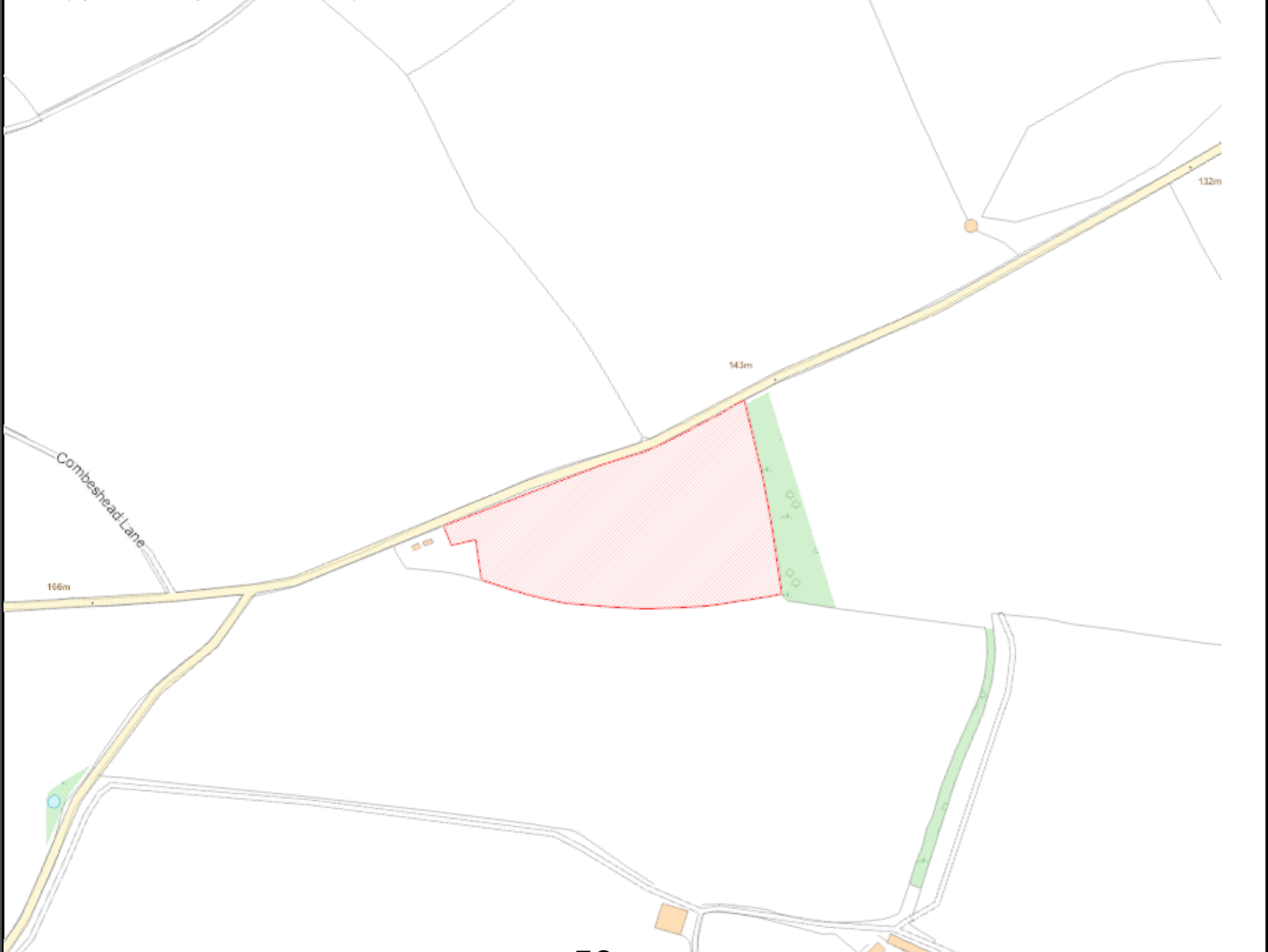
 <p><b>Teignbridge</b> .gov.uk</p> <p><b>Planning Committee Report</b></p> <p><b>Chairman: Cllr Colin Parker</b></p>	
<b>Date</b>	14 May 2024
<b>Case Officer</b>	Gary Crawford
<b>Location</b>	Land Off Idestone Lane Ide Devon
<b>Proposal</b>	Change of use of land for use as secure dog walking field for private hire and creation of associated area for parking.
<b>Applicant</b>	Mr K & Mrs P Thompson
<b>Ward</b>	Kenn Valley
<b>Member(s)</b>	Cllr Kevin Lake, Cllr Charles Nuttall, Cllr John Parrott
<b>Reference</b>	23/02157/FUL



[Online Details and Documents](#)

**RECOMMENDATION: PERMISSION GRANTED**

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## 1. REASON FOR REPORT

This application has been called in by both a Ward Member and by the Parish Council for the following reasons:

- Narrow access road.
- Increase in traffic.
- The proposed scheme would not serve the residents of Ide.
- Impact on the countryside.
- Insufficient information about how waste would be removed from the site and how the site would be managed.

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to conditions addressing the following matters, the precise number and form of which shall be delegated to the Head of Development Management:

1. Standard three year time limit.
2. Works shall proceed in accordance with approved plans.
3. The development shall not be brought into its intended use until details of the heritage information to be provided online and upon an interpretative display panel located on a publicly accessible boundary fence location have been submitted to and agreed in writing by the Local Planning Authority.
4. The use hereby approved shall only be used for the exercising of dogs between the hours of 8am to 8pm April – October and 8am to 4pm November - March.
5. Dog walking sessions must be limited to one customer per session with a maximum of two booked sessions permitted per hour.
6. No external lighting shall be installed on, or in association with the development unless otherwise agreed in writing by the Local Planning Authority.

## 3. DESCRIPTION

### The site

- 3.1 The site comprises of a roughly triangular tract of agricultural land to the south of Idestone Lane. The site lies approximately 1.7km to the south west of Ide. The site occupies a prominent elevated position within the landscape and is bound to the north and south by hedge boundaries and to the east by a strip of woodland. The site is served by an existing field gate off Idestone Lane.

- 3.2 The site is located within designated open countryside and within an Area of Great Landscape Value (AGLV). A significant part of the site is designated as the Scheduled Monument of 'Roman signal station 450m north of Marshal Farm'.

#### The application

- 3.3 This application seeks permission for a change of use of the land for use as a secure dog walking field for private hire and the creation of an associated area for parking. The proposal includes the erection of post and wire fencing around the perimeter of the field with an access gate and the erection of post and rail fencing around the parking area.

#### Main issues

The main issues for consideration are:

- Principle of the development;
- Highway safety;
- Impact upon the character and visual amenity of the open countryside;
- Impact on the scheduled monument;
- Impact on residential amenity;
- Biodiversity impacts
- Drainage;
- Carbon reduction; and
- Other matters.

#### Principle of the development

- 3.4 The application site is located within the open countryside and outside of any defined settlement limit as depicted in the Local Plan. Policy S22 of the Local Plan details that within the open countryside, development will be strictly managed and limited to uses which are necessary to meet the overall aim of Policy S22. These uses include leisure uses. As such, the principle of the development is deemed to be acceptable, subject to compliance with other relevant policies of the Local Plan.

#### Highway safety

- 3.5 The submitted Planning Statement details that the dog exercising park is to be hired by the half-hour with bookings made in advance of arrival via a management website, whereby the user would then be sent a code to access the gates to the dog walking field. The Planning Statement sets out further that there would be a limit on the number of users / dogs that can be walked at any one time within the site; which would be restricted to one user with a maximum four dogs. Furthermore, a limit of two vehicles would be allowed to use the car park at any one time (one arriving / one leaving) to ensure there is sufficient manoeuvrability space within the car parking area and this would enable vehicles to enter and exit the site in a forward gear. The applicant's agent has confirmed that the gates to the parking area would be open at all times during business hours, meaning that there would always be direct vehicular access from the lane into the site and customer vehicles would not obstruct the highway.

- 3.6 A number of representations have been received with regards to the narrow lane to access the site, potential highway safety impacts and an increase in traffic as a result of the proposed development. Given that the future users of the proposed dog walking field would be required to make bookings in advance of arrival via a management website, given that only one user would be able to use the site at any one time and as the timeslots are for 30 minutes, even at full capacity, there are only likely to be two vehicles an hour travelling to and from the site. The Highway Authority have advised that, even given the constraints of Idestone Lane, they consider that it is unlikely that the proposed development would present a severe impact on the existing highway network. As such, given that the Highway Authority have not objected to this application, it is considered that the proposed development would not result in any unacceptable highway safety impacts which would warrant a refusal of this application. It is considered necessary to include a condition with any approval to limit the dog walking sessions to one customer per session with a maximum of two booked sessions permitted per hour, in the interests of highway safety.

#### Impact upon the character and visual amenity of the open countryside

- 3.7 The proposal includes the erection of post and wire fencing around the perimeter of the field and the erection of post and rail fencing around the parking area. Whilst the proposed erection of the fencing would have an impact upon the character and visual amenity of the open countryside and Area of Great Landscape Value (AGLV), given that the fencing would be less than 2m in height and it would not be adjacent to a highway, the fencing could be erected under permitted development and therefore not requiring planning permission. As such, it is deemed that it would not be reasonable to refuse this application on this basis. It is deemed that the installation of the heavy duty grass reinforcement mesh for the proposed parking area would have a negligible impact upon the character and appearance of the open countryside and AGLV. In order to protect the dark skies of the AGLV, it is considered necessary to include a condition with any permission which states that no external lighting shall be installed on, or in association with the development, unless otherwise agreed in writing by the Local Planning Authority.

#### Impact upon the scheduled monument

- 3.8 A significant part of the site is designated as the scheduled monument of 'Roman signal station 450m north of Marshal Farm'. It is proposed that a 1.5m high post and wire fence would be erected across the scheduled monument, whilst the parking area falls within its setting. Historic England have been consulted on this application and they have confirmed that they have already granted scheduled monument consent for the erection of the fence across the monument and they have raised no objection to the application on heritage grounds.
- 3.9 The Heritage Statement submitted in support of this planning application states that it is considered that the proposed managed public access to the site is an opportunity to increase awareness of the site and its historical importance. The Heritage Statement sets out further that there is an opportunity to provide information on the history of the site and the character of the scheduled monument through the booking website.

3.10 Devon County Council's Archaeology department have been consulted on this application and they have commented that they consider that the proposal complies with the NPPF and the Teignbridge Local Plan which set out that development that better reveals or enhance the significance of heritage assets should be treated favorably. DCC Archaeology's department have advised that any consent granted should be conditional upon the provision of publicly available information on the Roman signal station which should include information available online - as part of the web-based booking system - as well as physically at the dog walking field. It is recommended that a condition is included with any approval which states that the development shall not be brought into its intended use until details of the heritage information to be provided online and upon an interpretative display panel located on a publicly accessible boundary fence location have been submitted to and agreed in writing by the Local Planning Authority.

3.11 Paragraph 205 of the revised National Planning Policy Framework (NPPF) 2023 states that:

*'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*

3.12 Paragraph 206 of the NPPF details 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. Paragraph 208 of the NPPF specifies that 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.

3.13 It is considered that the level of harm from the fencing and parking area proposed would be less than substantial harm and it is deemed that increasing awareness and appreciation for the monument and its setting in the form of providing heritage information online and an interpretative display panel on the site would be a public benefit considered to outweigh the harm to the heritage asset.

#### Impact on residential amenity

3.14 The nearest residential properties to the site are located approximately 265m to the south. There are also expected to be a limited number of dogs/customers on site at any given time. As such, given the distance between the application site and the

nearest residential properties, it is deemed that the proposal would not result in any significantly harmful impacts upon residential amenity in terms of noise.

- 3.15 With regards to waste, the submitted Planning Statement details that customers would be responsible for removing their own dog waste and this requirement would be strictly enforced, with the field checked on a daily basis. The Planning Statement sets out further that any customer not adhering to this requirement will not be permitted to use the field (the booking system will enable customers to be identified) and that any stray waste that is found, would be removed from the field by the applicant who would have a vested interest in ensuring as clean an environment as possible for customers as well as themselves.

#### Biodiversity impacts

- 3.16 The Council's Biodiversity Officer was verbally consulted on receipt of this application and they advised that they considered that no ecology report or formal consultation was required. The Biodiversity Officer advised that the fencing proposed must go inside the hedge and not impact upon the hedgerow. The submitted Planning Statement states that all of the mature hedgerow and trees would be retained. As such, it is considered that the proposal would not result in any significantly harmful biodiversity impacts.

#### Drainage

- 3.17 The installation of a heavy duty grass reinforcement mesh for the proposed parking area would provide a solid surface for vehicles to park on but it would also be permeable and would allow water to flow through the mesh. As such, it is considered that the proposal would not result in any worse drainage impacts than the existing situation.

#### Carbon reduction

- 3.18 Ideally, the proposed use should be located on the edge of a settlement limit where it would be accessible by foot. However, this is likely to result in amenity impacts in terms of noise. A condition is proposed to limit the dog walking sessions to one customer per session with a maximum of two booked sessions permitted per hour in order to control intensity of use proposals. Furthermore, the proposal could shorten the distance that people travel by vehicle to walk their dogs, e.g. dog walkers that live in Exeter may decide to go to Idestone Lane to walk their dogs rather than Haldon Forest. It is acknowledged that the application site is not located in a sustainable location, however, given the type of use that is proposed and given the number of trips that the proposed use is likely to generate, it is considered that the unsustainable location of the site would not be harmful enough to warrant a refusal of the application.



## Other matters

- 3.19 Paragraph 180 (b) of the NPPF states that planning decisions should “recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services including the economic and other benefits of the best and most versatile agricultural land.” This is supported by Local Plan Policy S1 which says that the impact of agricultural production will be relevant to the suitability of a proposal. The site is classified as Grade 2 agricultural land according to Natural England, which means it is included under ‘best and most versatile’.
- 3.20 Given the relatively small size of the application site, it is considered that on balance, the loss of good quality agricultural land is in this case not so significant that it would cause harm sufficient to warrant a refusal. Furthermore, as the only proposed physical works involve the erection of fencing and the installation of a grass reinforcement mesh, the proposed physical works are reversible and it would be possible for the site to revert back to agricultural use in the future should circumstances change. In addition the Parish Council have raised concern in respect of conflicts between this use and actively farmed land where lambing and calving occurs. Whilst this is noted, the site is to be limited in its use through a booking system and use of the site is within the confines of the fenced area. It is not considered that the concerns raised are material enough to warrant refusal of the application.

## Conclusion

- 3.21 The proposed development is considered to be acceptable and therefore it is recommended that planning permission be granted subject to conditions.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S7 Carbon Emission Targets

S22 Countryside

S23 Neighbourhood Plans

EN2A Landscape Protection and Enhancement

EN3 Carbon Reduction Plans

EN5 Heritage Assets

EN8 Biodiversity Protection and Enhancement

EN11 Legally Protected and Priority Species

Ide Neighbourhood Plan

### National Planning Policy Framework

### National Planning Practice Guidance

## 5. CONSULTEES

### **TDC Biodiversity Officer:**

The Council's Biodiversity Officer was verbally consulted on receipt of this application and she advised that she considered that no ecology report or formal consultation were required. The Biodiversity Officer advised that the fencing proposed must go inside the hedge and not impact upon the hedgerow.

### **DCC Highways:**

#### Comments dated 5 February 2024

Access is proposed off an unclassified road, subject to the national speed limit, for a single carriageway, of 60mph. Actual speeds are likely to be much lower due to the width and geometry of the road, being a typical Devon lane.

There have been no personal injury collisions, reported to/by the police, in the vicinity of the site between 01/01/2018 and 31/12/2022.

If the gates are going to be closed, then they will need to be set back 6m from the edge of the carriageway to allow a vehicle to stop and not obstruct the highway and be able to open and close the gate.

It is noted that there will be a booking system and only one user will be able to use the site at any one time. The timeslots are for 30mins so even at full capacity there are only likely to be 2 vehicles an hour. Even given the constraints of the road this is unlikely to present a severe impact on the existing highway network.

Please can confirmation be given as to how the gates are going to be operated during the use of the site before a recommendation can be made.

#### Comments dated 25 March 2024

Following the submission of additional information by the applicant, the Highway Authority is satisfied with the arrangements for the gates to the site.

### **DCC Archaeology:**

The application area occupies the site of a Roman signal station, which is protected as a scheduled monument. The applicant has had detailed discussions with Historic England with regard to the proposed fencing and scheduled monument consent has been granted for this work.

The Heritage Statement submitted in support of this planning application states in paragraphs 6.2.7 and 6.28:

*6.2.7 It is considered that the proposed managed public access to the site is an opportunity to increase awareness of the site and its historical importance. There is an opportunity to provide information on the history of the site and the character of the scheduled Monument through the booking website with no need for physical information at the site.*

*6.2.8 Increasing awareness and appreciation for the monument and its setting is considered to be a public benefit.*

This complies with the National Planning Policy Framework (2023) and the Teignbridge Local Plan which set out that development that better reveals or enhance the significance of heritage assets should be treated favorably. As such, the Historic Environment Team advise that any consent granted should be conditional upon the provision of publicly available information on the Roman signal station. This should include information available online - as part of the web-based booking system - as well as physically at the dog walking field.

**Historic England (see application file for comments in full):**

The proposal has the potential to harm the significance of the scheduled Roman signal station at Ide through both direct and indirect means.

The monument preserves the buried remains of a Roman signal station and the monument provides important information on Roman construction and communications.

We have had pre-consultation discussions with the applicants and they have been granted scheduled monument consent for the fence crossing the monument, which we note is included in the application.

We also note and endorse DCC Archaeology's comments regarding the erection of a suitable interpretation panel adjacent to the scheduled area of the site. We recommend that any consent be conditional upon the submission and approval of the text and illustrations for the board and that they be approved in writing by Mr Reed and ourselves. This was discussed and agreed as desirable during my site visit.

We recommend that any consent be subject to the following conditions in addition to any suggested by Mr Reed;

- provision of on-site (off monument) interpretation board
- text to be approved by S Reed and HE
- details of fencing to be as described
- hours of use agreed
- no lighting
- removal of all dog waste

No objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF.

## **6. REPRESENTATIONS**

A site notice was erected. 31 letters of objection have been received which have raised the following concerns:

- Increase in traffic.
- Highway safety.
- Impact on ecology.
- There isn't a need for the proposed facility.
- Impact on road surface.
- Concerns about the policing of the site as the applicant does not live close by.
- Impact on the Scheduled Ancient Monument.
- Flooding.
- Increase in pollution from vehicles.
- Concerns about litter and excrement.
- Impact on the landscape and character of the area.
- The site is car reliant.
- Noise pollution.
- Loss of agricultural land.

Two letters of comment were also received with regards to the site address as the site was originally advertised, incorrectly, as land off Whiddon Lane. This application was subsequently re-advertised with the correct site address.

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

### **Ide Parish Council:**

Object to the application

### **Traffic Congestion:**

Idestone Lane, a narrow and poorly maintained lane with limited passing opportunities, serves as the primary access route to the proposed site. Its current condition and design, including high hedges and limited visibility, pose significant risks to pedestrians, cyclists, and horse riders if there is an increase in vehicle traffic. This presents risks for both motorists and other users such as walkers, cyclists, and horse riders, especially considering the priority given to these groups over car users in the latest Highway Code. The lane's single-track nature and lack of passing spaces make it ill-suited for increased traffic, raising concerns about safety and accessibility for local residents and users of the area and poses challenges for both motorists and agricultural vehicles.

### **Environmental Impact:**

The proposed site lies within an Area of Great Landscape Value and is home to diverse wildlife, including ground-nesting birds and rare species like the Cirl Bunting. The development threatens to disturb this sensitive ecosystem, leading to potential habitat destruction, disturbance of nesting birds, and increased risk of disease transmission from dog excrement especially with the escalating risk of flooding in the area.

### **Agricultural Concerns:**

Local farmers have expressed concerns about the impact of increased dog activity on livestock safety and the potential for sheep worrying, trespass, and illegal parking. The proposed site's proximity to farmland, particularly during lambing and calving seasons, raises significant concerns about the welfare of animals and the viability of agricultural operations.

In summary, the objections raised against the proposed dog walking facility highlight significant concerns regarding traffic congestion, access issues, environmental impact, agricultural viability, and road safety. These concerns underscore the unsuitability of the proposed site for such a development, and we urge the planning committee to reject the application accordingly.

## **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. 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 COUNCIL DISTRICT

**PLANNING COMMITTEE**

CHAIRMAN: Cllr Colin Parker

<b>DATE:</b>	<b>14 May 2024</b>
<b>REPORT OF:</b>	<b>Head of Place and Commercial Services</b>
<b>SUBJECT:</b>	<b>Appeal Decisions received during previous calendar month</b>

**23/00047/REF**                    **KENN** - Gissons Hotel And Restaurant Kennford  
 Appeal against the refusal of 22/01162/FUL: Erection of new first floor structure to provide additional staff accommodation

Appeal Dismissed. Delegated Decision

**23/00049/REF**                    **ILSINGTON** - Ingsdon Quarry Liverton  
 Appeal against the refusal of 21/01846/OUT: Outline for manager dwelling (all matters reserved for future consideration)

Appeal Dismissed. Delegated Decision

**23/00050/REF**                    **DENBURY AND TORBRYAN** - 6 Rowan House North Street  
 Appeal against the refusal of 23/00975/VAR: Minor material amendments to planning permission 20/02140/HOU (detached oak framed single storey garden outbuilding) to include installation of ramped entrance (with steps) and terrace area, and changes to windows. Variation of condition 5 to allow for occupation by an elderly dependent relative

Appeal Allowed. Delegated Decision

**23/00055/REF**                    **IDEFORD** - Homefield Ideford  
 Appeal against the refusal of planning application 23/00735/FUL Change of use of land within red line boundary to extend residential curtilage and construction of a garage and implement store

Appeal Dismissed. Delegated Decision

**23/00062/REF**

**BISHOPSTEIGNTON** - Cockhaven Arms 12 Cockhaven  
Road

Appeal against the refusal of planning application 22/02156/FUL -  
Stationing of three shepherd huts and the erection of a linen and  
cycle store

Appeal Dismissed. To Committee if recommended for approval

**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**

<b>DATE:</b>	<b>14 May 2024</b>
<b>REPORT OF:</b>	<b>Head of Place and Commercial Services</b>
<b>SUBJECT:</b>	<b>Major variation applications approved in previous calendar month</b>

**There were no such applications approved during the period.**

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