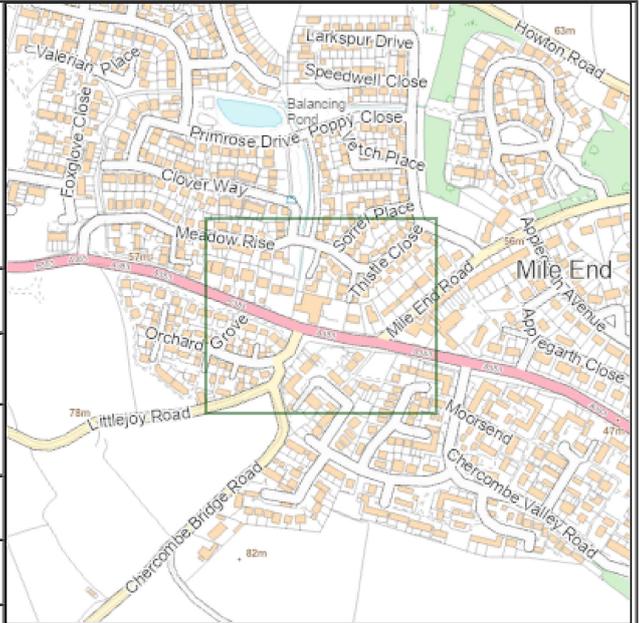


Planning Committee Report

Chairman: Cllr Colin Parker

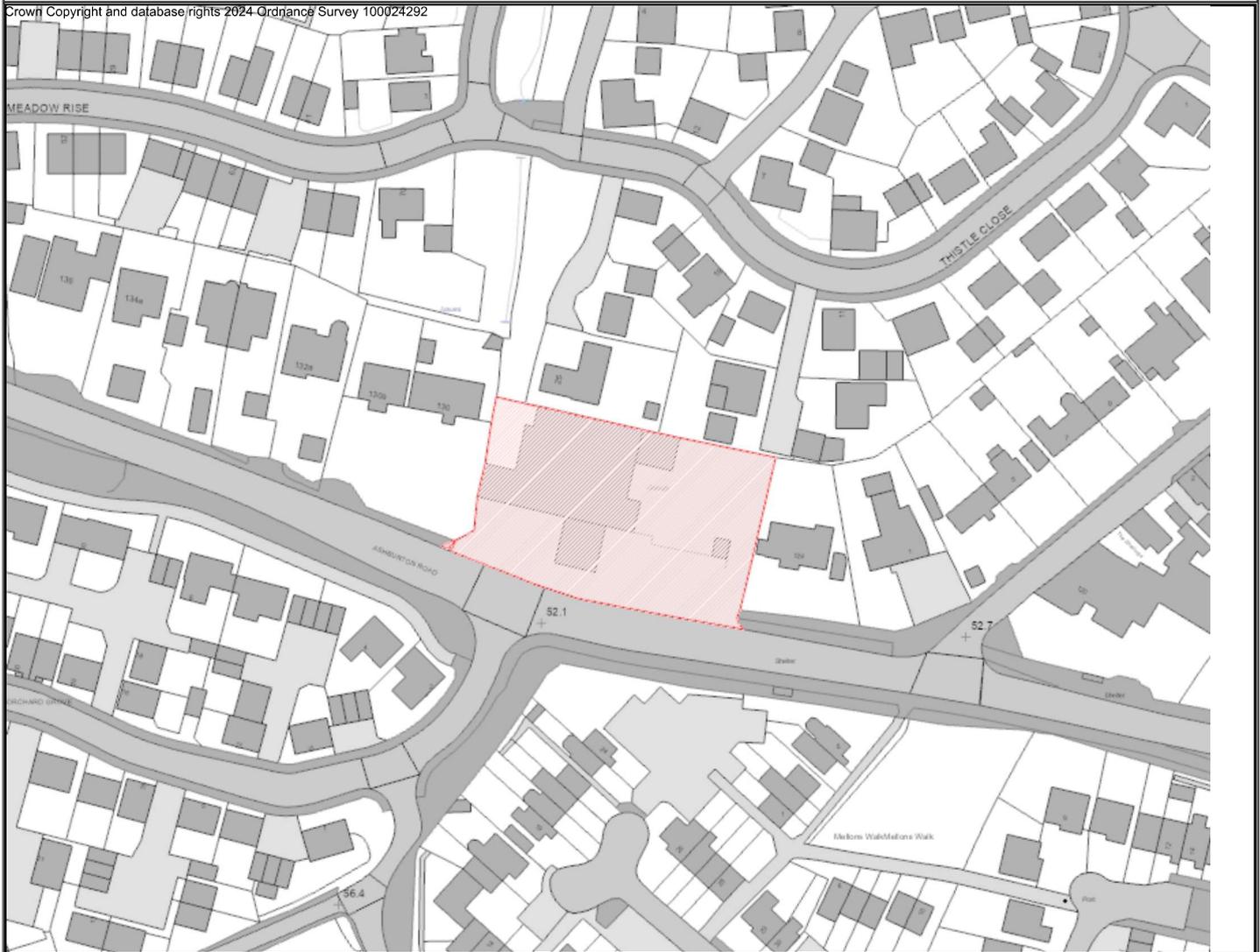
Date	23 January 2024
Case Officer	Clancy Sloan
Location	Pascoe And Gill Garage 128 Ashburton Road Newton Abbot Devon TQ12 1RL
Proposal	Convenience store and associated car parking
Applicant	Mr P Parker & Mr M Barber
Ward	Bradley
Member(s)	Cllr Philip Bullivant, Cllr Richard Buscombe
Reference	22/02342/FUL



[Online Details and Documents](#)

RECOMMENDATION: null

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1. REASON FOR REPORT

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

2. RECOMMENDATION

Planning Permission be granted subject to the following conditions:

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

Pre-commencement:

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

During Construction

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

Before works above DPM:

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

Prior to first use:

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

3. DESCRIPTION

The Application Site

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

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

Proposal

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

Site History

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

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

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

Principle of the development/sustainability

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

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

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

Impact upon the character and visual amenity of the area

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

Impact on residential amenity of surrounding properties

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

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

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

Highway Safety

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

Drainage

- 3.33. A detailed Drainage Assessment has been provided in support of the proposal. It is proposed that the surface water drainage of the car park area (73m²) will be managed by a soakaway on the site. For the proposed store roof and an area of the forecourt (726m²), an attenuated flow system to discharge back to the existing surface water connection to the Devon County Highways Sewer is proposed.
- 3.34. The applicant is proposing to connect an attenuated discharge back to the existing surface water connection to the Devon County Highways Sewer. Devon County Highways have confirmed that they are agreeable to the discharge rate from the proposed development, and the design provides a betterment to the existing situation.
- 3.35. The Council's Drainage Officer has reviewed the submitted materials, and agrees that the proposed attenuation structure will provide significant betterment over the existing drainage provision. Officers agree, and the proposed surface water drainage for the development is considered acceptable, provided that it is provided and maintained in accordance with the submitted Drainage Assessment. A condition is recommended to ensure compliance with the submitted Surface Water Drainage Assessment.

Contaminated Land

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

Other Matters

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

4. POLICY DOCUMENTS

4.1. Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S9 Sustainable Transport

S10 Transport Networks

S13 Town Centres

S14 Newton Abbot

S21A Settlement Limits

S23 Neighbourhood Plans

EC1 Business Development

EC2 Loss of Employment Sites

EC10 Local Shops

EN4 Flood Risk

EN7 Contaminated Land

EN12 Woodlands, Trees and Hedgerows

4.2. Newton Abbot Neighbourhood Plan

4.3. National Planning Policy Framework

4.4. National Planning Practice Guidance

5. **CONSULTEES**

Contaminated Land Officer

5.1. Received 30 August 2023:

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

Unsuspected contamination

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

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

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

Drainage Officer

5.2. Received 11 May 2023:

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

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

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

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

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

5.3. Received 31 October 2023:

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

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

Devon County Highways

5.4. Received 7 March 2023:

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

5.5. Email Received 24 May 2023:

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

Environmental Health

5.6. Received 18 May 2023:

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

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

Waste

5.7. Received 10 March 2023:

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

6. REPRESENTATIONS

6.1. One letter of representation has been received. The issues raised relate to:

- Concerns whether another convenience store is needed on Ashburton Road.
- Overlooking/loss of privacy/overbearing.
- Concerns about anti-social behavior.
- Concerns that customers may decide to park on grass verge instead of using carpark.
- Concerns about noise and disturbance from both the customers and delivery vehicles.

7. TOWN / PARISH COUNCIL'S COMMENTS

7.1. **Newton Abbot Town Council**

No Objection.

8. COMMUNITY INFRASTRUCTURE LEVY

The proposed gross internal area is 393.82m². The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 19.42m². The CIL liability for this development is £83,417.57. This is based on 374.4 net m² at £150 per m² and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

9. ENVIRONMENTAL IMPACT ASSESSMENT

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

11 HUMAN RIGHTS ACT

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Head of Place and Commercial Services