



Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG

Application No:	75993
Application Type:	Discharge of Conditions
Application Expiry:	21 November 2022
Extension of Time Expiry:	
Publicity Expiry:	27 February 2023
Parish/Ward:	TAWSTOCK/INSTOW
Location:	Land adjacent to Roundswell A39 Roundabout Roundswell Barnstaple Devon EX31 3RZ
Proposal:	Approval of details in respect of discharge of conditions 10 & 43 (provision & details of Toucan crossing or alternative crossing facility) attached to planning permission 72675 (hybrid planning application comprising the following: outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary infrastructure; and Full planning permission for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sq. m. including the completion of a Toucan crossing on the eastern arm of the Roundswell Roundabout (amended description, plans & Flood risk assessment))
Agent:	Mr Arthur Griffiths
Applicant:	St Johns Nurseries Pension Scheme and Murphy and N
Planning Case Officer:	Ms T. Blackmore
Departure:	
EIA Development:	
EIA Conclusion:	
Decision Level/Reason for Report to Committee (If Applicable):	Committee – The wording of condition 43 (provision & details of Toucan crossing or alternative crossing facility) of application 72675 seeks the discharge of condition to be submitted to and called into Planning Committee for consideration

Recommendation

APPROVE

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
76038	Variation of conditions 2 (approved plans), 3 (materials), 7 (outside seating area & details of balustrading) & 11 (roads and paths) attached to planning permission 72675 (hybrid planning application comprising the following: Outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary infrastructure; and Full planning permission for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sqm including the completion of a Toucan crossing on the eastern arm of the Roundswell Roundabout (amended description, plans & Flood risk assessment) to allow changes to approved layouts at St Johns Garden Centre, Roundswell, Barnstaple, Devon, EX31 3FA	Pending a decision	
19072	Proposed erection of double garage. at Clanton, Roundswell, Barnstaple, EX31 3NP	Full Planning Approval	5 August 1994
19073	Proposed alterations and extension to existing dwelling to form dependant relatives accommodation at Clanton, Roundswell, Barnstaple, EX31 3NP	Full Planning Approval	27 September 1994
23685	Proposed extension to dwelling at Clanton, Roundswell, Barnstaple, EX31 3NP	Full Planning Approval	13 June 1997
37159	Change of use of agricultural land to allow paintball games for a maximum of 80 players, maximum 100 days per year(amended description) at Larkbeare Plantation (southern section), Lake, Tawstock, Barnstaple, EX31 3HU	Full Planning Refusal	6 May 2004
51500	Alterations & first floor extension to dwelling at Clanton, Eastacombe, Barnstaple, Devon, EX31 3NP	Withdrawn	3 May 2011
52388	Alterations & first floor extension to dwelling at Clanton, Roundswell, Barnstaple, N Devon, EX31 3NP	Full Planning Approval	8 August 2011
46647	Formation of vehicle and pedestrian access with highway improvements and provision of drainage connections for garden centre development at Land	Withdrawn	27 February 2012

Reference Number	Proposal	Decision	Decision Date
	Alongside Old Torrington Road, Roundswell Road, Clanton, Roundswell, Barnstaple, EX31 3NP		
46453	Erection of garden centre, restaurant & formation of associated access & car parking (environmental statement) (amended & additional information) at land north of Clanton, Roundswell, Barnstaple, Devon	Full Planning + S106 Approval	16 August 2013
57088	Approval of details in respect of discharge of condition 6 (details of pond), 7 (hedgerow survey), 8 (proposed external lighting) & 13 (provision of storage) attached to planning permission 46453, erection of garden centre, restaurant & formation of associated access & car parking at land north of Clanton, Bordered By A39 & B3232, Eastacombe, Barnstaple, Devon, EX31 3NP	Withdrawn	13 June 2014
57389	Variation of condition 2 (approved plans) attached to planning permission 46453 to allow for change of design at Land North of Clanton, Roundswell, Barnstaple, Devon, EX31 3FA	Approve Modification S106	11 August 2014
58011	Approval of details in respect of discharge of condition 6 (suds drainage) attached to planning permission 57389 at St Johns Garden Centre (Clanton), Roundswell, Barnstaple, Devon, EX31 3NP	Discharge Of Condition Approve	12 September 2014
60348	First floor extension to dwelling at Clanton, Eastacombe, Barnstaple, Devon, EX31 3NP	Withdrawn	5 January 2016
60502	Application for a lawful development certificate for existing use of the annexe as a separate dwelling at Clanton, Roundswell, Barnstaple, Devon, EX31 3NP	Approve Cert. Lawful Develop	18 April 2016
61026	First floor extension to dwelling at The Annexe, Clanton, Roundswell, Barnstaple, Devon, EX31 3NP	Full Planning Approval	15 June 2016
63088	Construction of pub restaurant (a4), manager's flat; & associated servicing, car parking, landscaping, pedestrian/vehicle access & drainage system at Land North Of Clanton (SS5431sw), Adjacent To A39 & B3232, Roundswell, Devon	Full Planning Refusal	30 May 2018
63089	Construction of garden centre & associated uses; an A1 retail unit, associated servicing, car parking, landscaping, pedestrian/vehicle access &	Full Planning Refusal	30 May 2018

Reference Number	Proposal	Decision	Decision Date
	drainage systems at land north of Clanton (SS5431SW), adjacent to A39 & B3232 Roundswell, Devon		
63090	Construction of a building to accommodate a coffee shop (a1/a3) with drive-through facility; associated servicing, car parking, landscaping, pedestrian /vehicle access & drainage system at Land North Of Clanton (SS5431sw), adjacent to A39 & B3232, Roundswell, Devon,	Full Planning Refusal	30 May 2018
65990	Erection of a coffee shop (A1/A3) with drive-through facility together with associated servicing, car parking, landscaping, pedestrian/vehicle access & drainage system at land north of Clanton, land adj A39 & B3232, Roundswell, Barnstaple, Devon, EX31 3NP	Withdrawn	24 June 2019
72540	Extension to dwelling to provide improved domestic accommodation at Annexe Clanton, Roundswell, Barnstaple, Devon EX31 3NP	Approved	15 January 2021
72675	<p>Hybrid planning application comprising the following:</p> <p>Outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary infrastructure; and</p> <p>Full planning permission for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sq. m. including the completion of a Toucan crossing on the eastern arm of the Roundswell Roundabout (amended description, plans & Flood risk assessment) at St Johns Garden Centre, Roundswell, Barnstaple, Devon, EX31 3FA</p>	Approved	8 April 2022
75615	Approval of details in respect of discharge of condition 4 (Unit Size Concessions and Subdivision - Petrol Filling Station) attached to planning permission 72675 (Hybrid planning application comprising the following: Outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary	Approved	8 September 2022

Reference Number	Proposal	Decision	Decision Date
	infrastructure; and Full planning permission for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sq. m. including the completion of a Toucan crossing on the eastern arm of the Roundswell Roundabout (amended description, plans & Flood risk assessment)) at land adjacent to Roundswell A39 Roundabout, Barnstaple, Devon, EX31 3SU		

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Adopted County Wild Life Site: Larkbear Plantation Policy Ref: ST14	Within constraint
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 45.7m	Within constraint
Class I Road	
Class II Road	
Critical Drainage Area	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Tree Preservation Order: 322 - W2, Larkbear Plantation, Tawstock, Barnstaple	Within constraint
USRN: 27502302 Road Class:A Ownership: Highway Authority	11.17
USRN: 27506790 Road Class:B Ownership: Highway Authority	6.48
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within Surface Water 1 in 100	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within Surface Water 1 in 30	Within constraint
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within:Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
DM05 - Highways ST10 - Transport Strategy	

Consultees

Name	Comment
<p>DCC - Development Management Highways</p> <p>Reply Received 3 October 2022</p>	<p>The proposed works are not acceptable because of technical details, including but not limited to:</p> <p>TAL 2/03 Signal-control at Junctions on High-speed Roads has been superseded by Traffic Signs Manual Chapter 6.</p> <p>A major concern is the lack of advance speed detection measures and other features such as more signal heads needed for a NSL road (even if this is becoming a 40mph road it should be designed to NSL – that is our requirement in allowing a crossing in this location).</p> <p>Zig Zags –increase the number of zig zags on each approach due to the speed of road so maybe have 16 on each approach instead of the 8 shown</p> <p>Power Supply – you will need to provide this through the power works at the development site but should include details in any later correspondence for signal design</p> <p>HFS is possibly too short on the eastbound approach. Length of HFS for 40mph is 65m, for 60mph is 130m, or back to the roundabout. Road will need to be checked for damage and repaired before HFS is laid.</p> <p>Must have an engineer’s bay – proposed bay in the turning head of Old Torrington road is quite a distance from the control box and also on the wrong side of the crossing. – This would be dangerous for an engineer to cross the road if the signals are not working – and an engineer would most likely just park on the road next to the control box. Consider moving the control box and/or the bay. Need signal controller behind VRS to protect it, and any engineers working on it.</p> <p>Discussion needed on whether the keep left arrow on the central island is to be kept, or if it detracts from the signals, or obscures pedestrians.</p> <p>In respect of VRS and safety fencing – noted a length of trief kerbs similar to those on site, the length seems appropriate albeit there is no report or evidence that shows a suitable assessment has been carried out. If the limit is reduced below 50mph, then RRRAP would not apply and arguably the kerbs would not be required. However this will need to be designed to NSL, then RRRAP does apply and the crossing and the approaches should be assessed and need for VRS determined, and the kerbing justified. The introduction of this toucan means that the need for safety fencing (including ped guard rail) needs has to be considered, recorded and agreed.</p>

Name	Comment
	<p>The 215m visibility for the traffic signal head on the southern side of the is straight through both of the ADS signs, this need to be checked and a solution found if this is the case. Also, visibility splay to the west is shown through the middle of the roundabout, but that is solid.</p> <p>NSL terminal signs on A39 to be 750mm to match the 40mph signs. Otherwise, it will appear there is a grey border around the NSL signs.</p> <p>Traffic signal warning sign on A39 Dia.543 to be 900mm high not 1200mm (distance plate to match) as special amenity considerations apply and the 85% will be reducing due to the roundabout approach.</p> <p>No 40mph repeaters shown. I would recommend repeaters are placed under the Traffic signal warning sign Dia.543</p> <p>Street lighting is not being extended so the speed limit signs do not need to be lit.</p> <p>Traffic signal warning sign on B3232 Dia.543 to be 750mm high not 1200mm (distance plate to match) as special amenity considerations apply and the 85% will be reduced due to being located between the two roundabouts.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 1 November 2022</p>	<p>The application requires 'details' to be agreed and this is within the title of the application.</p> <p>Significant details are not yet agreed between the designer/developer and Highway Authority, including the precise layout and signal design, and no road safety audit has been provided.</p> <p>Therefore the proposal should be refused based on the current submitted plans.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 13 February 2023</p>	<p>The applicant has submitted detailed drawings and a road safety audit with designer's response stating that the submitted plans will be changed.</p> <p>Therefore, if this application is approved with the currently submitted drawings, implementation of the proposal would be ultra vires as it would either be contrary to the road safety audit to contrary to the submitted plans (if built to the new plans required by the road safety audit but yet to be drawn up)</p> <p>This application should therefore not be approved at the present time.</p>
<p>DCC - Development</p>	<p><u>REVISED POSITION</u></p> <p><u>21 Feb 2023 - We have moved on a little since my last email.</u></p>

Name	Comment
Management Highways Reply Received 21st February 2023	We don't have an objection to the discharge of conditions because firstly, we didn't ask for the condition and secondly, the plans are considered acceptable now – although we disagree with the requirement of the road safety audit to provide high level signals – the plans don't show this and won't because we are the ones to design it. Regarding the 40mph limit, the Traffic Regulation Order is yet to be advertised but has been agreed to be.

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0	0	1	0	0

The application has attracted one letter of objection, raising the following concerns:

- Potential danger to install a traffic light controlled crossing so close to the exit from the Roundswell Roundabout.

Considerations

Site Description

The site is located to the southwest of Barnstaple and to the south of the A39 with Barnstaple town centre being located approximately 3.7 km from the site. Access to the site is obtained via the B3232.

The land comprises of one field which is approx. 3.5 hectares which is located to the south-east of Roundswell Roundabout at the junction of the A39 and B3232. The site is bounded to the north by the A39 North Devon Link Road and to the west by the B3232 Barnstaple to Torrington Road. The roadside boundaries are a mixture of post and rail fencing and hedgerow. To the south and east are substantial areas of woodland including Larkbear Plantation.

Roundswell Business Park lies across the A39 to the northwest whilst residential housing known as Osborne Gardens lies across the A39 to the north of the site. To the west of the site across the B3232 is land allocated under Policy BAR10: Roundswell Business Park of the Local Plan which has been granted planning permission for B1, B2 and B8 uses. The North Devon Enterprise Centre, now known as the Node co-working space has been recently constructed on this land.

Planning permission has been granted under reference 72675 - Hybrid planning application comprising the following: outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary infrastructure; and Full planning permission for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sq. m. including the completion of a Toucan crossing on the eastern arm of the Roundswell Roundabout

Proposal Description

This application seeks to discharge the following condition(s) imposed on application 72675

- Condition 10 – Provision and details of Toucan Crossing or Alternative Crossing Facility (relating to the full planning permission for a for a petrol filling station and associated shop and drive-thru coffee shop, occupying a total gross floor area of 1,215 sq. m).

‘Prior to commencement of the development details of the design of the Toucan crossing or alternative crossing facility across the A39 shall be submitted to and agreed in writing by the Local Planning Authority. Should the toucan crossing be pursued this shall be informed by the Road Safety Audit Stage 2, 3 and 4 and be subject to a section 278 highways agreement to include the installation of anti-skid surface and the TRO to enable to current speed limit to be lowered to 40 MPH with signage to suit. No part of the development hereby approved shall be brought into use until the approved Toucan crossing or alternative crossing facility is provided across the A39 and is operational.

Reason:

To ensure safe and satisfactory facilities are in place for pedestrians and cyclists to cross the A39 in accordance with Policy DM05 of the North Devon and Torridge Local Plan’.

- Condition 43 - Provision and details of Toucan Crossing or Alternative Crossing Facility (relating to the outline application occupying a total area of 1.44 hectares consisting of a garden centre of up to 6,000 sq. m. (gross external floor area), car parking and, other associated ancillary infrastructure).

‘Prior to commencement of the development details of the design of the Toucan crossing or alternative crossing facility across the A39 shall be submitted to and called into Planning Committee for consideration. Should the Toucan crossing be pursued this shall be informed by the Road Safety Audit Stage 2, 3 and 4 and be subject to a section 278 highways agreement to include the installation of anti-skid surface and the TRO to enable to current speed limit to be lowered to 40 MPH with signage to suit. No part of the development hereby approved shall be brought into use until the approved Toucan crossing or alternative crossing facility is provided across the A39 and is operational.

Reason:

To ensure safe and satisfactory facilities are in place for pedestrians and cyclists to cross the A39 and to reflect the assessed modal split in accordance with Policy DM05 of the North Devon and Torridge Local Plan’.

Planning Considerations Summary

The condition(s) were applied to planning permission 72675 in order to make the development acceptable in terms of planning policy and other material planning considerations.

Conditions 10 and 43 require the details of the design of the Toucan crossing and resurfacing of the road.

The details contained in these conditions will then go on to be set out in Section 278 Highway Agreement.

The signals have been designed for a national speed limit road. However the Traffic Regulation Order is about to be advertised which would reduce the speed at the junction to 40mph. The signals design is extra robust as if the Traffic Regulation Order to reduce the speed to 40mph does not happen (unlikely but possible) it is still appropriate for the road as currently is.

The following information has been submitted and has been considered by the appropriate consultees:

- 22198 100A7 General Arrangement Layout received on the 10/02/23
- 22198 1100 A6 Kerbing Layout received on the 10/02/23
- 22198 1101 A7 S278 Surfacing Layout received on the 10/02/23
- 22198 1200A6 S278 Road Markings Signage Layout Sheet 1 received on the 10/02/23
- 22198 1201A6 S278 Road Markings Signage Layout Sheet 2 received on the 10/02/23
- 21198 2600A6 S278 Legal Layout received on the 10/02/23

DCC Highways make the following recommendations:

'We don't have an objection to the discharge of conditions because firstly, we didn't ask for the conditions and secondly, the plans are considered acceptable now – although we disagree with the requirement of the road safety audit to provide high level signals – the plans don't show this and won't because we are the ones to design it.'

Regarding the 40mph limit, the Traffic Regulation Order is yet to be advertised but has been agreed to be'.

Conclusion

The application is considered to provide sufficient information to ensure that the scheme can address the requirements for Conditions 10 and 43 - Provision and details of Toucan Crossing or Alternative Crossing Facility.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

APPROVE

Legal Agreement Required: No

Conditions

1. Having now considered the submitted details:

22198 100A7 General Arrangement Layout received on the 10/02/23

22198 1100 A6 Kerbing Layout received on the 10/02/23

22198 1101 A7 S278 Surfacing Layout received on the 10/02/23

22198 1200A6 S278 Road Markings Signage Layout Sheet 1 received on the 10/02/23

22198 1201A6 S278 Road Markings Signage Layout Sheet 2 received on the 10/02/23

21198 2600A6 S278 Legal Layout received on the 10/02/23

For the above conditions the Local Planning Authority have determined that these are acceptable.

The requirement to provide acceptable details of these conditions is therefore discharged.

The works are now required to be carried out in accordance with these details.