

Application Report

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

Application No:	77246
Application Type:	Non-Material Amendment
Application Expiry:	22 September 2023
Extension of Time Expiry:	22 September 2023
Publicity Expiry:	
Parish/Ward:	SOUTH MOLTON/SOUTH MOLTON
Location:	Unit 1 77 The Old Tannery East Street South Molton Devon EX36 3DQ
Proposal:	Application for a non-material amendment to planning permission 70262 (conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings & associated works) in respect of removal of (4) visitors car parking spaces
Agent:	Mr Paul Boundy
Applicant:	Mr Paul Boundy
Planning Case Officer:	Miss S. May
Departure:	
EIA Development:	
EIA Conclusion:	Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable):	<p>Called in by Councillor Bushell for the following reasons: <i>I requested that planning dept allow public consultation, this request was denied!</i> <i>Escalation by 'call in' is the only remaining recourse available allowing residents and councillors to give representation towards this application. Doing so protects the Nolan principles of 'openness' and 'integrity' (and the potential for reputational damage to NDC) and also upholding democracy.</i> <i>Local knowledge identifies that parking is a serious issue in this immediate area of S.Molton and the application seeks to remove 4 visitor parking spaces. Parking and Highways were discussed by the planning committee when the original application was submitted and thus I believe these to be material consideration.</i> <i>There is also no justification held within this application for the abolition of a right of way.</i></p>

Site Description

The site is on the south eastern edge of the Town accessed from East Street and comprises 77 East Street (within the blue outline) and The Tannery. The Design and Access Statement on approved application 70262 refers to the site as 'an important late 19th century industrial complex which may incorporate late 17th century and certainly early to mid-19th century elements. The complex was at the centre of an area of light industry to the east of the town along East Street. Towards the middle of the 20th century there was a steady decline in the tannery business, although the industry continued until the business and most of the tannery buildings were sold in 1954. By 1988 most of the tannery buildings were bought back and subsequently rented by small local businesses'. The type of recent uses includes car repairs, light manufacturing and storage.

Access from East Street is between two buildings; a building known as "The Stables" on the east side and No .77 East Street to the west side, which is not included within the development proposals. From the entrance, the driveway dog-legs around the L-shaped residence of No .77 before continuing southwards, with former tannery buildings on either side. It then passes between a walled garden to the east and a field to the west, providing access to the buildings at the southern end of the complex.

The ground descends steadily from c. 123 Metres Above Sea Level (MASL) at East Street (to North) to c. 107m MASL at the southern extent of the Site. At the lowest edge of the site is a drainage ditch/brook.

The land to the west of the driveway is long and narrow, the top half sloping gently downhill from c. 123 MASL to c. 117 MASL before sloping more steeply to c. 108 MASL at the southern end.

At the northern end of the Site the tannery complex is flanked by houses situated along East Street and their respective gardens. Fields surround the remainder of the Site although modern housing developments are located a short distance to the west and to the south.

The Site area is 0.99ha

At the time of the site visit it was evident that works had commenced on site and a number of foundations had been laid for the proposed dwellings. And the site is currently being developed in accordance with planning permissions 70262 and 70263.



Land to north



Views northeast facing north (The Apple Loft)



Views from south facing northwards (the Nicholls Shed)



Views towards south of site



Foundations laid for proposed dwellings to west of site



Location Plan

Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
17288	Conservation Area Application in connection with proposed conversion of Old Stables to form 2 no. flats at the Old Tannery, East Street, South Molton, EX36 3DQ	Withdrawn	1 June 1993
17287	Proposed conversion of Old Stables to form 2 no. holiday units (amended description) at the Old Tannery, East Street, South Molton, EX36 3DQ	Full Planning Approval	13 September 1993
17762	Proposed removal of existing wooden roof vent & re-instatement of slate roof at Old Tannery, East Street, South Molton, EX36 3DQ	Full Planning Refusal	12 October 1993
70263	Listed building application for conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings at The Old Tannery, East Street, South Molton Devon EX36 3DQ	Approved	8 June 2020
70262	Conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings & associated works at The Old Tannery, 77 East Street, South Molton, Devon EX36 3DQ	Approved	14 July 2020
72132	Approval of Details in respect of discharge of conditions 6 (Land Contamination) and 9 (Landscape and Ecological Management Plan) attached to planning permission 70262 Conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings & associated works at The Old Tannery 77 East Street, South Molton Devon	Approved	9 November 2020
76096	Erection of a stand-alone bat roost at The Old Tannery, East Street, South Molton Devon EX36 3DQ	Approved	12 December 2022
75738	Approval of details in respect of discharge of condition 10 (surface water drainage), 11 (surface water drainage management system, 12 (surface water exceedance pathways & overland flow routes) & 13 (adoption & maintenance arrangements of permanent surface water drainage management system) attached to planning permission 70262 (conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings	Approved	18 January 2023

Reference Number	Proposal	Decision	Decision Date
	& associated works) at 77 The Old Tannery, East Street, South Molton Devon EX36 3DQ		
77157	Application for a non-material amendment to planning permission 70262 (Conversion of existing buildings to create 14 dwellings together with erection of 7 new dwellings & associated works) in respect of addition of PV panels to plots 15-21, changes to incorporate brick detailing, railings to plot 18, insertion of window opening on plot 20 and base of stepped approach on plot 21 at 77 The Old Tannery East Street, South Molton Devon	Approved	26 June 2023

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Adjacent to Conservation Area: 30 South Molton Adopted 09/12/2008;	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 90 metres in height.	Within constraint
Class II Road	
Conservation Area: 30 South Molton Adopted 09/12/2008;	Within constraint
Land is potentially contaminated, site was used for:Leather tanning & dressing, Is ranked:MEDIUM, Year:1890	Within constraint
Land is potentially contaminated, site was used for:Leather tanning & dressing, Is ranked:MEDIUM, Year:1905	Within constraint
Land is potentially contaminated, site was used for:Leather tanning & dressing, Is ranked:MEDIUM, Year:1938	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Listed Building Adjacent: 39.0 EH Ref 1106842 No 77, East Street (north east side), South Molton	Within constraint
Listed Building Curtilage (Adjacent to)	Within constraint
Listed Building Curtilage (within)	Within constraint
Listed Building: 39.0 EH Ref 1106842 No 77, East Street (north east side), South Molton	Within constraint
Tree Preservation Order: 206 - A1, Land off Brook Meadow, Rear of East Street, South Molton Tree Preservation Order 1986	Within constraint
USRN: 27503090 Road Class:B Ownership: Highway Authority	4.57
Within adopted Development Boundary: South Molton Development Boundary DM04	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Surface Water 1 in 30	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
Within:Exmoor Heaths, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Listed Building Grade: 2	
Conservation Area: SOUTH MOLTON	

Consultees

Name	Comment
DCC – Development Management Highways	Yes I agree. Issues regarding the number of parking spaces within a site are for the LPA to determine against their own policy.
Reply Received 26 June 2023	You would need to consider the possibility that the owner may stop all parking on the site at any time without the need for planning permission to do so.
DCC – Development Management Highways	Internal parking layouts, and the number of parking spaces provided on a site are not a matter for the Highway Authority to consider.
Reply Received 18 August 2023	

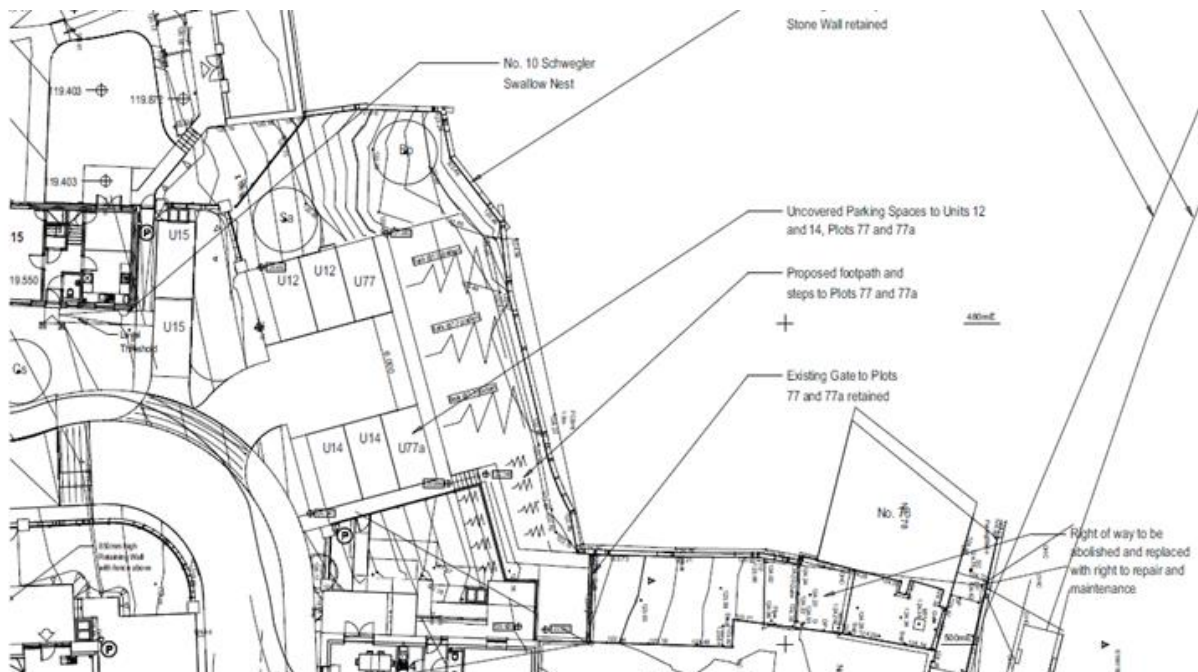
Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	0.00	0.00	0.00

Considerations

Proposal Description

This application seeks a non-material amendment to planning permission 70262 in respect of the removal of 4 no. visitor parking spaces.



Amended car parking drawing no. P1

The plan details that this would allow the existing 1:3 bank to remain in situ and no further excavations would be required.

Planning Considerations

The sole consideration in respect of the application is whether the proposed amendments to the extant full planning approval are considered to be non-material.

Section 96A(1) of the Town and Country Planning Act 1990 provides that: A local planning authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.

Section 96A(3) clarifies that: The power conferred by subsection (1) includes power to make a change to a planning permission-

- (a) to impose new conditions;
- (b) to remove or alter existing conditions.

The government's Planning Practice Guidance (PPG) establishes that: 'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.'

The NMA application relates to the removal of 4 no. visitor parking spaces.

History relating to site

Application 70262 – Conversion of existing buildings to create 13 dwellings together with erection of 7 new dwellings and associated works

Call-in

Application 70262 was called-in to committee by Cllr Worden for the following reason:

“As you no doubt are aware the South Molton Town Council would like the application regarding the Tannery, East Street called in for discussion by the Planning Committee if you are of a mind to grant permission for the full scheme. As ward member I too am concerned about the access on to East Street for lots of extra traffic. The access is not good and East Street has traffic problems of its own and I think that it should be looked at by committee”

Site plan as approved



Site plan as approved under 70262

The original plans as approved showed two parking spaces for each new dwelling plus four visitor spaces. In addition 1 space each was shown for number 77 and 77a with an internal path allowing access to the rear of no 77.

Whilst Councillor Bushell has stated in his call-in there is no justification held within the application for the abolition of a right of way, it is noted that original plan as approved states “Right of way to be abolished and replaced with right to repair and maintenance”.



Enlarged site plan as approved under 70262 showing original visitor spaces

DCCHW consultation response on 70262

The original consultation response from DCCHW on approved application 70262 states:

The proposal would result in the reuse of existing buildings and land that already generates a level of traffic similar to or higher than that which will result from the proposed dwellings. I therefore have no objection to the proposal on traffic impact grounds.

Visibility at the site entrance is substandard, however, due to the lack of vehicle collisions recorded here in the past and the existing use of the site as mentioned above, the future situation would be likely to see less traffic using this access than previously, and therefore a potential improvement in highway safety.

The internal road will not be suitable for adoption as public highway due to its narrow layout and likely level of contamination which would require to be removed entirely and rebuilt for the road to be adopted. APC charges will therefore apply under section 219 of the Highways Act until an exemption from these can be found as set out in part 4 of that section of the Act.

For the avoidance of doubt, this is not a reason to refuse the planning application. To ensure that there is safe and suitable access between the site and the facilities within the town for all people, my only requirement for this site is that the dropped crossing footway at the site entrance is remade properly and the (two) steps in the footway to the left of the entrance (on exiting) are removed and a non-stepped footway provided.

With the above improvements the site will be within easy walking distance of facilities within the town as well as bus services to other locations.

Committee Report – Parking section of report

The material consideration of the original report is re-iterated here for transparency:

- **Parking**

Policy DM06: Parking Provision

(1) Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to the:

- (a) accessibility and sustainability of the site;*
- (b) availability of public transport;*
- (c) provision of safe walking and cycling routes; and*
- (d) specific scale, type and mix of development.*

(2) Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration to the existing built form.

The layout provides two car parking spaces per unit with provision for the existing dwellings and two visitor spaces. The Local Plan does not specify a standard albeit it has always been accepted that as South Molton is rural that two car parking spaces per property is a reasonable requirement. In this instance given the size of the units two spaces are considered essential. The site is only a short walk from Town Centre facilities so cycle and pedestrian use is easily achievable.

It is understood that some local residents rent car parking spaces on the site. This was part of the commercial use of the Tannery. There is no obligation on a private landowner to make provision for car parking for third parties. South Molton has limited on road car parking due to the nature of the Town. Again this would not be a reason to refuse this planning application.

Car Charging Points have been provided where possible. There is no conflict with DM06.

Minutes from Committee meeting 09 October 2019

Having looked at the minutes for the approved application it is noted the following was stated:

.... On-site parking would be provided and that parking rights for other third parties could not be granted....

It was resolved to grant planning permission as follows:

RESOLVED (8 for, 0 against, 2 abstained) that the application be APPROVED as recommended by the Head of Place subject to:

- (a) That the Head of Place be delegated authority to resolve those issues identified in the report that were awaiting clarification and to apply appropriate conditions as required by the consultees to address the issues raised, secure the heads of terms of the section 106 agreement and seek a reduction in the construction hours as detailed in condition 8 on Monday to Fridays;*
- (b) That representations be made to Devon County Council requesting that: a comprehensive review of on street parking in East Street be undertaken; an assessment of traffic speeds which were considered excessive; an assessment of whether a weight restriction would be appropriate and whether a formal pedestrian crossing was required at the eastern end of East Street.*

It should be noted that no car parking conditions were imposed on the original application.

Highways

The Local Plan does not specify any parking standards and as stated in the history section the original committee report refers to this as being a sustainable location.

An e-mail has been sent to DCCHW commenting that in light of the fact the LPA has no parking standards they did not see how we could insist on the 4 no. visitor parking spaces being retained. DCCHW were in agreement that we could not insist on this and responded as follows:

“Issues regarding the number of parking spaces within a site are for the LPA to determine against their own policy.

You would need to consider the possibility that the owner may stop all parking on the site at any time without the need for planning permission to do so”.

Furthermore, DCCHW are aware that the application has been called in to committee and were again asked if there was anything further they wished to add. They have commented stating:

“Internal parking layouts, and the number of parking spaces provided on a site are not a matter for the Highway Authority to consider”.

Design

The removal of visitor spaces would not be materially different to the approved scheme given the scale and size of the scheme as a whole. The removal of the visitor spaces would allow a further landscaped area which is a Bank with a 1:3 gradient. The plan details that the proposed footpath and steps to Plots 77 and 77a would remain.

Amenity

No unacceptable consequential amenity impacts are identified.

Flood Risk and Drainage

No unacceptable consequential impacts are identified.

Conclusion

The proposed non material amendment does not affect the number of parking spaces approved for each of the new dwellings or those approved for the existing dwellings.

The proposed amendment does not affect any of the conditions attached to the extant permission, or the Section 106 agreement associated with the permission. No adopted planning policy is breached.

It is the Local Planning Authority’s view that the proposal represents a non-material amendment to the extant permission. Accordingly it is recommended that the application be approved.

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

Approved

Legal Agreement Required: No

Informatives

1. Having now considered the submitted details P1 Amended Car Parking received on the 09/06/23 the Local Planning Authority have determined that this is acceptable as a non-material amendment to application 70262.

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

You are reminded that this decision has to be read in conjunction with application 70262 and the conditions, informatives and Section 106 agreement relating to this previous consent remain applicable.

End of Report