



## **Application Report**

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

**Application No:** 77911  
**Application Type:** NDC Regulation 3  
**Application Expiry:** 9 January 2024  
**Extension of Time Expiry:**  
**Publicity Expiry:** 14 December 2023  
**Parish/Ward:** BARNSTAPLE/BARNSTAPLE CENTRAL  
**Location:** Queen Street / Bear Street Car Park  
Barnstaple  
Devon

**Proposal:** Application under regulation 3 of the Town & country Planning General Regulations 1992 notification by North Devon Council for creation of a new vehicle and pedestrian access from Alexandra Road into Queens Street Bear Street carpark (resubmission of application 76081)

**Agent:** Viki Kamenova  
**Applicant:** North Devon Council  
**Planning Case Officer:** Mr M. Brown  
**Departure:** N

**EIA Development:**  
**EIA Conclusion:** Development is outside the scope of the Regulations.  
**Decision Level/Reason for Report to Committee (If Applicable):** Committee

### **Site Description**

The site is currently set out as a public car park with segregation in the middle. Access is currently gained from Bear Street and Queen Street. To the north of the site is Bear Street and the rear properties which are both commercial and residential. To the south of the site is the Royal Mail sorting office and to the west are the commercial properties which face Queen Street. To the east of the site is the A39 Inner Relief Rd, known as Alexandra Road.

There are some trees to the western boundary of the site and limited landscaping within the hard surface car park which is reasonably flat.



The Site viewed from Alexander Road looking towards its junction with Bear Street.



The site viewed from Alexander Road





The site viewed from within the car park

### **Recommendation**

**Approved**

Legal Agreement Required: No

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>11046</b>	T & CP Gen Regs 1976. Proposed demolition of building & formation of temporary car park at car park & land adj., Queen Street, Barnstaple, EX32 7DA	Full Planning Approval	8 March 1990
<b>16786</b>	Application under Reg 3 of the T & C P Gen Regs 1992 in respect of continued use of temporary car park (Renewal of 11046) at car park & land adj., Queen Street, Barnstaple, EX32 7DA	Full Planning Approval	30 March 1993
<b>22032</b>	Application under Reg 3 of the T & C P General Regs 1992 in respect of formation of temporary car park (renewal of plan permission 13302) at car park & land adjoining, Queen Street, Barnstaple, EX32 7DA	Full Planning Approval	11 June 1996
<b>76081</b>	Application under Reg 3 of the T & CP General Regs 1992 notification by NDC for the creation of a new vehicle and	Approved	8 February 2023

Reference Number	Proposal	Decision	Decision Date
	pedestrian access from Alexandra Road into Queens Street Bear Street car park at car park , Queen Street, Barnstaple Devon EX32 7DA		

### **Constraints/Planning Policy**

Constraint / Local Plan Policy	Distance (Metres)
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 91.4m	Within constraint
Land is potentially contaminated with: Potential Tanks	18.62
Landscape Character is: 7 Main Cities and Towns	Within constraint
USRN: 27500843 Road Class:A Ownership: Highway Authority	5.10
Within Adopted Town Centre Expansion: BAR11 Queen Street/Bear Street	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

BAR - Barnstaple Spatial Vision and Development Strategy

BAR11 - Queen Street / Bear Street

DM01 - Amenity Considerations

DM02 - Environmental Protection

DM04 - Design Principles

DM05 - Highways

DM06 - Parking Provision

DM08 - Biodiversity and Geodiversity

DM19 - Town and District Centres

ST01 - Principles of Sustainable Development

ST03 - Adapting to Climate Change and Strengthening Resilience

ST04 - Improving the Quality of Development

ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres

ST10 - Transport Strategy

ST12 - Town and District Centres

ST14 - Enhancing Environmental Assets

## Consultees

<b>Name</b>	<b>Comment</b>
Arboricultural Officer  Reply Received	No objection received.
Barnstaple Town Council  Reply Received	No objection received at the time of writing the report.
Councillor S Jusef  Reply Received	No objection received.
DCC - Development Management Highways  Reply Received	<p>As part of the previous application the Highway Authority advised:</p> <p>16/01/2023 The traffic assessment has considered worst case scenarios, including most of the traffic using the new junction, when in reality the other two accesses will remain open. The proposal itself will not generate new traffic, only move traffic around the network. I therefore have no objection to the proposed assessment or proposal.</p> <p>The changes to the waiting restrictions in 'the layby' will be subject to TRO, which is a separate legal process. If that TRO is not approved, then an alternative design would need to be agreed.</p> <p>05/01/2023 Observations: The amended plans, with addition of pedestrian accesses north and south of the proposed new vehicle entrance, are now acceptable in planning terms. Some additional work will be required on the detailed design for a highway agreement to be entered into.</p> <p>Traffic Regulation Orders shall be required to be approved before the works can commence, including banning of right turns and changes to parking in the existing 'layby' area.</p> <p>Recommendation: the Head Of Planning, Transportation And Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that conditions shall be incorporated in any grant of permission</p>
DCC - Historic Environment Team  Reply Received	<p>The Historic Environment Team has no comments to make on this planning application.</p> <p>27 November 2023</p>
Environmental Health Manager	The following comments were received as part of the previous application:

Name	Comment
Reply Received	<p data-bbox="443 230 608 264">13/01/2023</p> <p data-bbox="443 271 1398 371">I have reviewed comments received from Mr King and the Clarkebond "Response to public letter" dated 9 December 2022, to which Mr King's submission refers.</p> <p data-bbox="443 416 1398 779">I do not agree with Mr King's assertions in relation to potential traffic related noise increases associated with the proposed development. Traffic using Alexandra Road is the dominant source of noise affecting this location. If the proposal were to move the road itself closer to the existing dwellings then significant increases of noise would be a potential concern. However, this is not the case. The proposal to create a car park access across the current layby area will not change the situation with regard to road noise being dominant - the proposals are unlikely to make any significant difference to noise levels at the relevant properties.</p> <p data-bbox="443 819 874 853">My previous comments stand.</p> <p data-bbox="443 893 608 927">21/11/2022</p> <p data-bbox="443 934 1378 1034">The conclusion of the engineer regarding noise impact expressed in Viki Kamenova's email of 18 November 2022 accords with my own expectations and previous advice.</p> <p data-bbox="443 1075 608 1108">02/11/2022</p> <p data-bbox="443 1115 1398 1552">The email refers to the impact of noise from the queuing lane on dwellings at 19 and 20 Alexandra Road. I considered this potential issue prior to providing my comments. I concluded that the proposals were unlikely to make any significant difference to noise levels at these properties. Noise at the front of the properties is currently dominated by highway traffic noise. The noise of occasional vehicles passing along what is currently a restricted vehicle waiting area to access the car park is unlikely to significantly affect traffic related noise levels at the properties. Also, queuing of vehicles in front of the properties appears unlikely to be a frequent occurrence as no entry barriers are proposed and so vehicles should be able to drive straight into the car park.</p> <p data-bbox="443 1592 1358 1659">Given the above, the emailed comments do not alter my original comment of no objection.</p> <p data-bbox="443 1700 608 1733">27/10/2022</p> <p data-bbox="443 1740 1294 1807">I have reviewed this application in relation to Environmental Protection matters. I have no objection.</p>
NDC Waste, Recycling & Commercial Services	No objection received.
Sustainability Officer	No objection received.

## Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	1	0.00	0.00

Affordable housing should be provided.

The representation does not impact on the determination of this application as the scheme does not require an affordable housing contribution by way of planning policy.

## Considerations

### Proposal Description

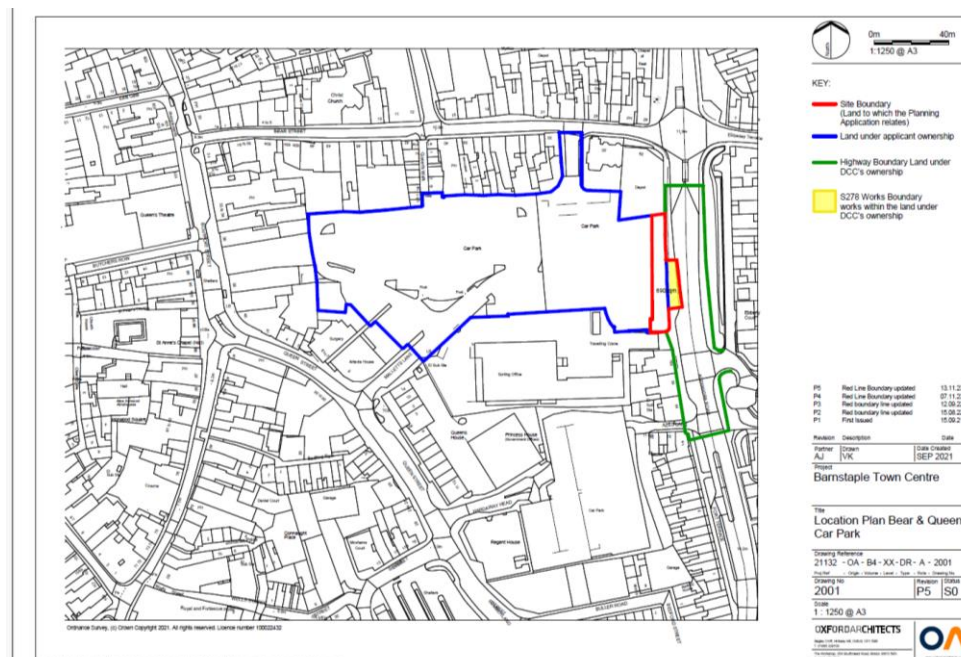
This application seeks detailed planning permission for the formation of a new access from the A39, Alexandra Road, Barnstaple, into the existing public car park and a left turn exit (to the north) back onto the A39. Vehicles could also continue to access and exit the site using the existing entrances to Bear Street and Queen Street.

This planning application follows on from a previous grant of planning permission (76081) for a similar scheme which proposed to utilise a filter lane. This scheme seeks permission for the access without the filter lane.

As part of the submission a landscape scheme is proposed.

The applicant has confirmed that the Queens Street and Bear Street carpark are currently two separate carparks however joining them in to one is also proposed. This planning application is focused only on the Alexandra Road, West side of the carpark.

Furthermore the applicant has suggested that the scheme will improve car park legibility and access to the town.

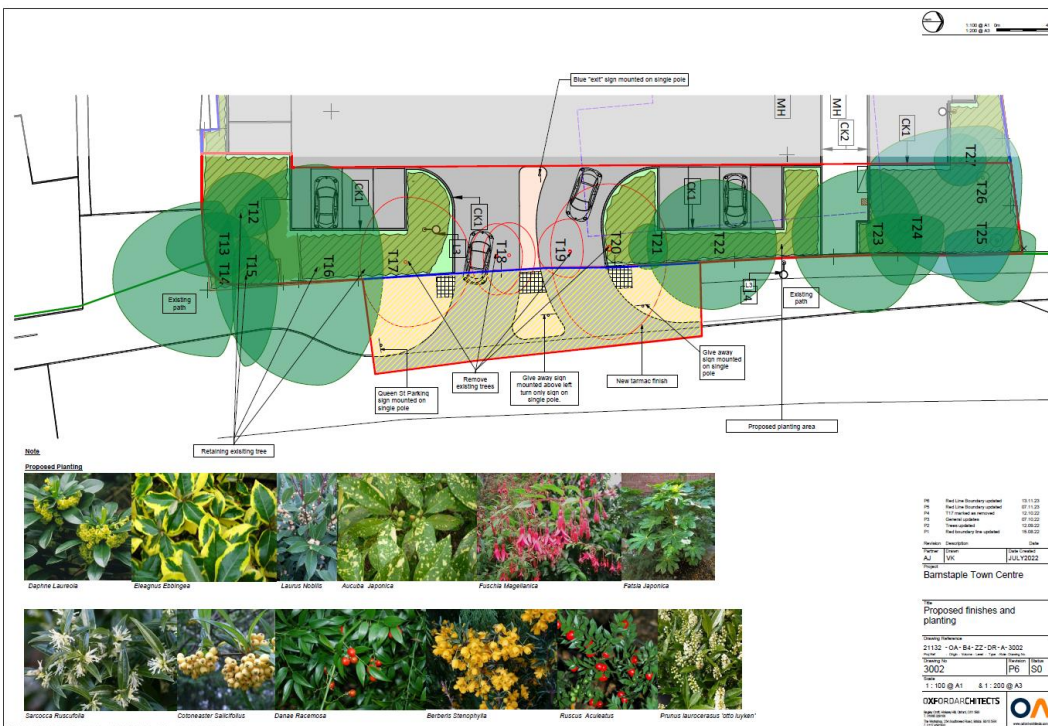


Location Plan – Not to Scale





Access Layout – Not to Scale



Landscaping Details – Not to Scale

### Planning Considerations Summary

- Principle of Development
- Design and Highways
- Amenity



- Ecology
- Flood Risk and Drainage

### **Planning Considerations**

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states a general duty of a Local Planning Authority as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework (NPPF) is a material consideration.

### **Principle of Development**

Policies BAR, BAR11, ST01, ST06, DM19 and ST12 set out a general support for development which supports the vitality and viability of the town centre. It is understood that this development is part of a package of measures that the applicant is seeking to implement across the town to support its vitality and viability. This scheme meets this aspiration subject to the consideration of detailed development management criteria as considered below.

### **Design/Highways**

Policy ST04 of the Local Plan states that development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04.

Policy DM04 of the Local Plan encourages good design and ensures that development proposals should be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood; reinforce the key characteristics and special qualities of the area in which the development is proposed; and contributes positively to local distinctiveness, historic environment and sense of place.

Policy DM05 of the Local Plan (Highways) states that:

(1) All development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and

(2) All development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy DM06 of the Local Plan (Parking Provision) states that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

The previous application was supported by a Transport Assessment (TA) with significant analysis of the impact of the proposal on the local road network in particular the A39 / Bear St traffic signals. It is anticipated that the finalised version of this document for this application will draw similar conclusions (it is hoped that the final version will be available prior to members considering the application)

The Highway Authority has previously confirmed that the proposal will not directly generate additional new traffic, but might result in a redistribution of traffic on the road network as drivers use alternative entrance to this car park, or use this car park instead of others in the town. The conclusion of the TA indicated previously that the impacts of the proposal will have minimal impact on the operation of the road network, there is no evidence to dispute this.

The proposal is likely to result in additional traffic accessing the car park from the A39 directly, and remove some traffic from Queen Street and Bear Street. Opening up the car park by removing the barriers in the middle may result in some through trips. Planning conditions recommend by the Highway Authority can ensure the scheme does not impact on the highway network overall.

In terms of design the proposal sits within the urban landscape and not result in a scheme that jars with its setting in design terms.

Whilst there are listed buildings to the east of the relief road and the car park abuts the conservation area to the north given the extent of the works proposed and the existing use of car park it is concluded that the significance of the heritage assets will be preserved in accordance with policies ST15 and DM07 of the adopted local plan and that there will be no anticipated impacts on archaeology.

In conclusion design and highway implications are considered to be acceptable subject to the imposition of planning conditions if the scheme is granted planning permission.

### **Amenity**

A number of concerns were previously raised through representation that the proposal may have a negative impact on the amenity of residents having particular regard to noise.

Policy DM01 of the Local Plan (Amenity Considerations) states that development will be supported where:

- (a) it would not significantly harm the amenities of any neighbouring occupiers or uses;
- and
- (b) the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

As part of the previous application the Environmental Health Officer initially raised no objection to the scheme in terms of amenity and this continued through even after having

considered representations which were submitted as part of the previous application. The Environmental Health Officer stated:-

*“Impact of noise from the queuing lane on dwellings at 19 and 20 Alexandra Road. I considered this potential issue prior to providing my comments. I concluded that the proposals were unlikely to make any significant difference to noise levels at these properties. Noise at the front of the properties is currently dominated by highway traffic noise. The noise of occasional vehicles passing along what is currently a restricted vehicle waiting area to access the car park is unlikely to significantly affect traffic related noise levels at the properties. Also, queuing of vehicles in front of the properties appears unlikely to be a frequent occurrence as no entry barriers are proposed and so vehicles should be able to drive straight into the car park. Given the above, the emailed comments do not alter my original comment of no objection.”*

As this scheme omits the filter lane traffic will be kept further away from the neighbouring properties, thus reducing amenity impacts.

It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. In this case, the proposal complies with the principles of good neighbourliness and the protection of existing residential amenities and as such is considered to comply with policy DM01.

### **Ecology**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Policies DM08 and ST14 of the adopted local plan seeks to ensure protected species impacts are mitigated and that a biodiversity net gain is secured.

Whilst the scheme will result in the loss of some landscaping overall a net gain in landscaping and biodiversity is proposed. This can be controlled by a planning condition thus ensuring that the net gain in biodiversity is secured, as required by the planning policy, and potential impacts on ecology mitigated.

### **Flood Risk and Drainage**

The site is not within a flood risk zone, whilst the extent of the scheme is not considered to be of such a scale to impact on the wider drainage network and as such there is not considered to be a flood risk issue with regard to this scheme.

To ensure that South West Water’s equipment, that may be located in the area, is not impacted upon an informative can be applied to any decision notice if planning permission is granted.

### **Other Matters**

Any alteration of highway signage is a matter for the highway.

### **Conclusion**

Final details in terms of the Transport Assessment are awaited from the applicant, however, as set out above it is anticipated that these will reflect the previous outcomes.



As such it is recommended that the application be Delegated to the Head of Planning to be approved following the consideration of the update TA (if these details are not provided prior to the Planning Committee), along with no new unacceptable issues being raised prior to the expiry of the consultation period.

Subject to the consideration of the foregoing the application is considered to accord with the adopted development plan and Duty detailed above. Approval of the application is therefore recommended subject to the imposition of planning conditions once the consultation period has expired.

### **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**

The application be Delegated to the Head of Planning to be **approved** following the consideration of the update TA (if these details are not provided prior to the Planning Committee), along with no new unacceptable issues being raised prior to the expiry of the consultation period.

Legal Agreement Required: No

### **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason:

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

21132 OA B4 XX DR A 2001P5 Location Plan received on the 13/11/23

21132 OA B4 ZZ DR A 3002P6 Proposed Finishes & Planting Plan received on the 13/11/23

21132 OA B4 XX DR A 2005P4 Proposed Access & Parking Plan received on the 07/11/23 ('the approved plans').

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

3. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the approved drawings.

Reason:

To provide adequate visibility from and of emerging vehicles having regard to policy DM05 of the adopted local plan.

4. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

Reason:

In the interest of public safety and to prevent damage to the highway having regard to policy is DM01 and ST03 of the adopted local plan.

5. No works shall commence unless and until traffic regulation orders are approved for banning right turns onto and off the A39 in the vicinity of the site.

Reason:

In the interest of highway safety having regard to policy DM05 of the adopted local plan.

6. Any proposed carriageway, road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason:

To ensure that adequate information is available for the proper consideration of the detailed proposals having regard to policies DM05 and DM06 of the adopted local plan.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the formation of the access hereby approved or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations.

Reason:

To assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

8. In this condition 'retained trees, hedges and shrubs' means an existing tree, hedge or shrub, which is to be retained in accordance with the approved plans and particulars and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first use of the access hereby approved.

(a) No retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any tree, be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations.

(b) If any retained tree, hedge or shrub is removed, uprooted or destroyed or dies, another tree, hedge or shrub shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of protective barriers and any other measures identified as necessary for the protection of any retained tree, hedge or shrub shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, or in accordance with an approved method statement and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason:

To safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

### **Informatives**

1. South West Water will need to know about any building work over or within 3 metres of a public sewer or lateral drain. They will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Please note that no development will be permitted within 3 metres of the water main, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

If further assistance is required to establish the exact location of the sewer or water main, the applicant/agent should contact our Services helpline on 0344 346 2020.



Should you require any further assistance, please contact the Developer Services Planning Team either via email [developerservicesplanning@southwestwater.co.uk](mailto:developerservicesplanning@southwestwater.co.uk) or direct line: 01392 442836.

2. The above consent requires the submission of further details to be approved either before works commence or at identified phases of construction.

To discharge these requirements will mean further formal submissions to the Authority on the appropriate forms, which can be completed online via the planning Portal [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or downloaded from the Planning section of the North Devon Council website, [www.northdevon.gov.uk](http://www.northdevon.gov.uk)

A fee may be required [dependent on the type of application] for each separate submission [if several or all the details are submitted together only one fee will be payable].

Further details on this process are available on the Planning section of the Council's website or by contacting the Planning Unit at Lynton House, Commercial Road, Barnstaple. Ex31 1DG.

3. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission. This has included seeking revisions and considering issues including design, amenity, highway safety and ecology.

End of Report