



## **Application Report**

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

**Application No:** 77581  
**Application Type:** Non-Material Amendment  
**Application Expiry:** 18 September 2023  
**Extension of Time Expiry:**  
**Publicity Expiry:**  
**Parish/Ward:** BARNSTAPLE/ROUNDSWELL  
**Location:** Former North Devon Leisure Centre  
Seven Brethren Bank  
Barnstaple  
Devon

**Proposal:** Application for a non-material amendment to planning permission 73606 (Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure (additional information) in respect of amendment to the full planning permission to include revisions to levels, materials, drainage and lighting

**Agent:** Miss Tatiana Brent  
**Applicant:** Miss Tatiana Brent  
**Planning Case Officer:** Mrs J. Meakins  
**Departure:**  
**EIA Development:**  
**EIA Conclusion:**  
**Decision Level/Reason for** Committee  
**Report to Committee (If** The land is owned by North Devon Council.  
**Applicable):**

### **Site Description**

The site is to the south of the Town Centre on the southern bank of the River Taw and covers a total area of 6.64 hectares (ha).

The site is accessed either from Station Road (retail park entrance off the A3125) or from the Longbridge (Grade 1 Listed) signalised junction. At the northern end is the North Devon Leisure Centre, with the Seven Brethren Short and Long Stay Pay and Display Car Parks (408 spaces) to the south. This area also contains the gypsy and travellers' site and event space. The latter being the location of the Fair.

To the west is the retail park comprising of Lidl, Pets at Home, Curry's PC World and Halfords (also a listed building) and on the opposite side of the access road are Jewson's, Travis Perkins and BJ Value and the temporary Police Station. The Tesco Superstore and railway station are further west.

The Tarka Tennis Centre, AGP and the new Leisure Centre are located to the south.

The southern part of the site wraps around the western edge of the sports facilities currently comprises marshy grassland and scrub and adjoins the recycling centre and railway line.

A range of footpath and cycle routes run around the site edges.

### **Recommendation**

#### **Approval**

Legal Agreement Required: No

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>76784</b>	Reserved matters application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC pursuant of the outline application of 73606 - Outline application for 180 dwellings together with all associated infrastructure) (amended plans/documents) at North Devon Leisure Centre, Seven Brethren Bank, Barnstaple Devon EX31 2AP	Pending consideration	
<b>76875</b>	Approval of details in respect of discharge of conditions 5 (phasing programme), 7a (land condition remediation strategy & timetable of works), 10 (CEMP), 12 (flood resilience), 21 (waste audit) and 26 (walking and cycling strategy) attached to planning permission 73606 (Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure) at Former North Devon Leisure Centre, Seven Brethren Bank, Barnstaple Devon	Pending consideration	
<b>76882</b>	Approval of details in respect of discharge of conditions 3 (soft landscaping) 4 (CEMP) 5 (CMP) zones 2 and 3 only attached to planning permission 65312	Pending consideration	

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
	(flood defence improvement works comprising the part removal and replacement of a flood wall along the southern bank of the river Taw) at Seven Brethren Bank, Barnstaple Devon		
<b>76883</b>	Approval of details in respect of discharge of conditions 5 (phasing programme) 12 (flood resilience) 26 (walking/cycling strategy) and part discharge of conditions 7(a)(remediation strategy) 10 (CEMP - car park and demolition) 21 (waste audit - demolition) attached to planning permission 73606 (Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure (additional information)) at North Devon Leisure Centre, Seven Brethren Bank, Barnstaple EX31 2AP	Pending consideration	
<b>65312</b>	Flood defence improvement works comprising the part removal & replacement of a flood wall along the southern bank of the River Taw at Open Space, Barnstaple, Devon,	Full Planning Approval	15 November 2018
<b>65329</b>	Listed Building Application for the insertion of an expanding foam seal on the west, east side & the junction of the proposed new flood defence walls at Long Bridge, The Square, Barnstaple, Devon	LB (Execution Works) Approval	15 November 2018
<b>66445</b>	Application under Regulation 3 of the T & C P General Regulations 1992 for Approval Of Details in respect of Reserved Matters Application for artificial grass pitch (layout/scale/appearance and landscaping) along with levels and means of enclosure (Outline Application 63351) at Tarka Tennis Centre, Seven Brethren Bank, Barnstaple Devon EX31 2AS	Reserved Matters Approval	22 May 2019
<b>66400</b>	Approval Of Details in respect of Discharge of Condition 11 (contamination), 13 (piling re floodlights), 14/15 (surface water management), 16 (construction management), 18 (lighting), 19 (LEMP), 20 (tree protection) attached to Planning Permission 63351 (Outline Planning Permission) in respect of the	Discharge of Condition Approve	1 July 2019

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
	AGP works (Amended Description) at Tarka Tennis Centre, Seven Brethren Bank, Barnstaple, Devon, EX31 2AS		
<b>71405</b>	Reserved matters application for the erection of a new swimming facility in an extension to the existing centre, to include 25m swimming pool & learner pool, sports hall & associated facilities; together with the extension of the existing car parking, relocation of HGV parking to accommodate the new car parking, hard & soft landscaping (outline planning permission 63351) at Tarka Tennis Centre Seven Brethren Bank, Barnstaple Devon EX31 2AS	Approved	10 July 2020
<b>71912</b>	Application for a non material amendment to planning permission 71405 to change approved timber cladding to a composite material for the elevations at Tarka Tennis Centre, Seven Brethren Bank, Barnstaple, Devon EX31 2AS	Approved	10 September 2020
<b>71516</b>	Approval of details in respect of discharge of conditions 6 (discontinuance order for existing leisure centre), 11 & 12 (remediation strategy), 13 (foundation works) 14 & 15 (surface water drainage), 16 (construction environment management plan), 17 (noise impact assessment), 19 (landscape and ecological management plan) and 20 (protection of trees and hedges) attached to planning permission 63351 (outline application for the erection of a new swimming facility in an extension to the existing centre to include 25m swimming pool & learner pool, sports hall & associated facilities; together with external works comprising the provision of a new full size 3G artificial grass playing pitch, extension of the existing car parking, relocation of HGV parking to accommodate the new car parking, hard & soft landscaping) at Tarka Tennis Centre, Seven Brethren Bank, Barnstaple Devon EX31 2AS	Approved	25 September 2020
<b>74060</b>	Application under Regulation 3 of the T&CP General Regulations 1992 notification by Devon County Council in respect of a new pedestrian and cycle bridge spanning the A361 carriageway and railway line, and associated paths,	Observations	30 September 2021

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
	ramps, embankments, fencing and landscaping/mitigation planting (DCC/4254/2021) at Land at Seven Brethren Bank, Barnstaple, Devon EX31 3HT		
<b>74108</b>	Approval of details in respect of discharge of Conditions 4 (CEMP) and 5 (CMP) attached to planning permission 65312 in respect of Zone 5 (Flood Defence Improvement works comprising the part of removal and replacement of a flood wall along the southern bank)(amended description) at Taw Wharf, Anchorwood Bank, Stickletpath, Barnstaple EX31 2AA	Approved	21 October 2021
<b>75613</b>	Listed Building Application for the insertion of an expanding foam seal on the west, east side & the junction of the proposed new flood defence walls at Long Bridge, The Square, Barnstaple Devon EX32 8LN	Approved	20 October 2022
<b>73606</b>	Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure (additional information) at North Devon Leisure Centre, Seven Brethren Bank, Barnstaple Devon EX31 2AP	Approved	15 November 2022
<b>76733</b>	Approval of details in respect of discharge of conditions 16 (landscaping), 17 (LEMP) & 18 (south marsh orchids) attached to planning permission 73606 (Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure) at Former North Devon Leisure Centre, Seven Brethren Bank, Barnstaple Devon	Approved	23 March 2023
<b>77114</b>	Approval of details in respect of discharge of condition 18 (orchid translocation) attached to planning permission 73606 (Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC in respect of Hybrid application	Approved	22 May 2023

Reference Number	Proposal	Decision	Decision Date
	for full application for the provision of a replacement long stay car park and temporary toleration site & Outline application for 180 dwellings together with all associated infrastructure) at Former North Devon Leisure Centre, Seven Brethren Bank, Barnstaple Devon		

### **Constraints/Planning Policy**

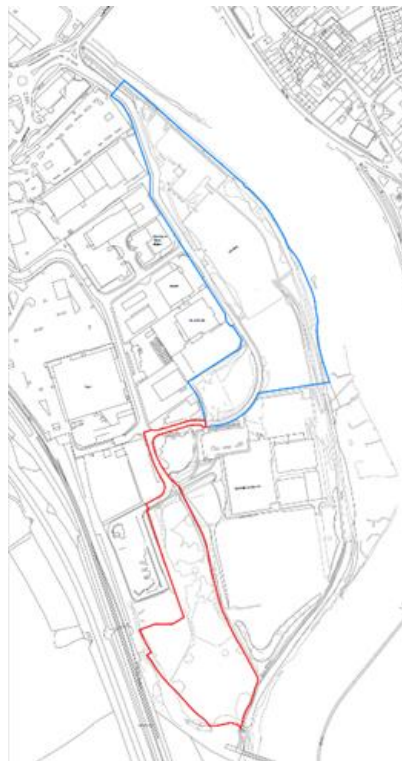
Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Barnstaple	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Land is potentially contaminated, site was used for:Factory or works - use not specified, Is ranked:MEDIUM, Year:1964	Within constraint
Land is potentially contaminated, site was used for:Heap, unknown constituents, Is ranked:MEDIUM, Year:1964	Within constraint
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1890	13.12
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1905	13.12
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1932	13.12
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1938	13.12
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1964	13.12
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1992	11.04
Land is potentially contaminated, site was used for:Refuse disposal, Is ranked:MEDIUM, Year:1992	Within constraint
Landscape Character is: 4A Estuaries	Within constraint
Landscape Character is: 7 Main Cities and Towns	Within constraint
Minerals and Waste Consultation Zone: Waste Consultation Zone Seven Brethren	Within constraint
Public Right of Way:Footpath 204FP27	Within constraint
Public Right of Way:Footpath 204FP9	Within constraint
Risk of flooding from: Wistlandpound, reservoir with risk level High-risk	Within constraint
USRN: 27502141 Road Class:R Ownership: Highway Authority/Private	Within constraint
USRN: 27504417 Road Class:G Ownership: Highway Authority	Within constraint
USRN: 27505006 Road Class:G Ownership: Highway Authority	Within constraint

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
USRN: 27505050 Road Class:R Ownership: Highway Authority/Private	Within constraint
USRN: 27505051 Road Class:Q Ownership: Private	Within constraint
USRN: 27505363 Road Class:YFP Ownership: Highway Authority	Within constraint
USRN: 27505373 Road Class:YFP Ownership: Highway Authority	Within constraint
Within 50m of Adopted Proposed Footpath/Cycle Route:BAR13 Seven Brethren	7.46
Within 50m of Adopted Proposed Footpath/Cycle Route:BAR20(e) Strategic Green Infrastructure Links	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	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

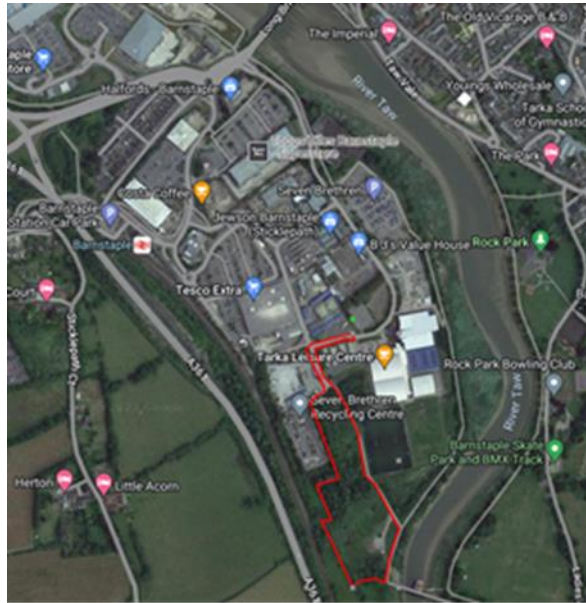
## **Considerations**

### **Proposal Description**

This application seeks a non-material amendment to planning permission 73606 in respect of the surfacing materials, lighting strategy, drainage, and levels.



Location Plan



Aerial View

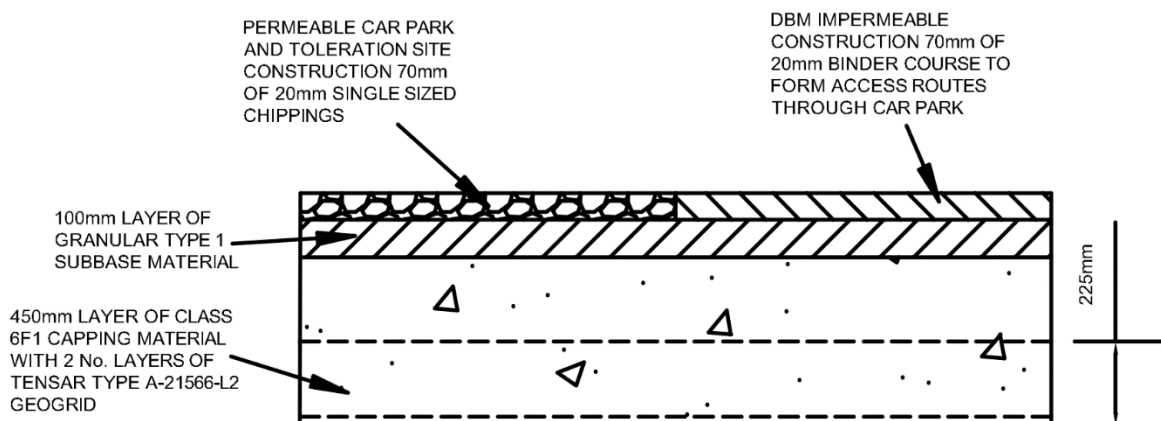
## Planning Considerations

This application for a 'non-material amendment' removes the need for an entirely new planning application to be submitted as only a very small change is sought. This application would form an amendment to the original planning permission and would be subject to the conditions and time limit of the original permission. It does not form a new planning permission.

There is no statutory definition of 'non material' as it dependant on the context of the overall scheme. Whether or not a change can be considered as a 'non-material amendment' is defined according to established legal concepts of materiality and is normally only a very small change to the development (what is referred to as 'de minimus').

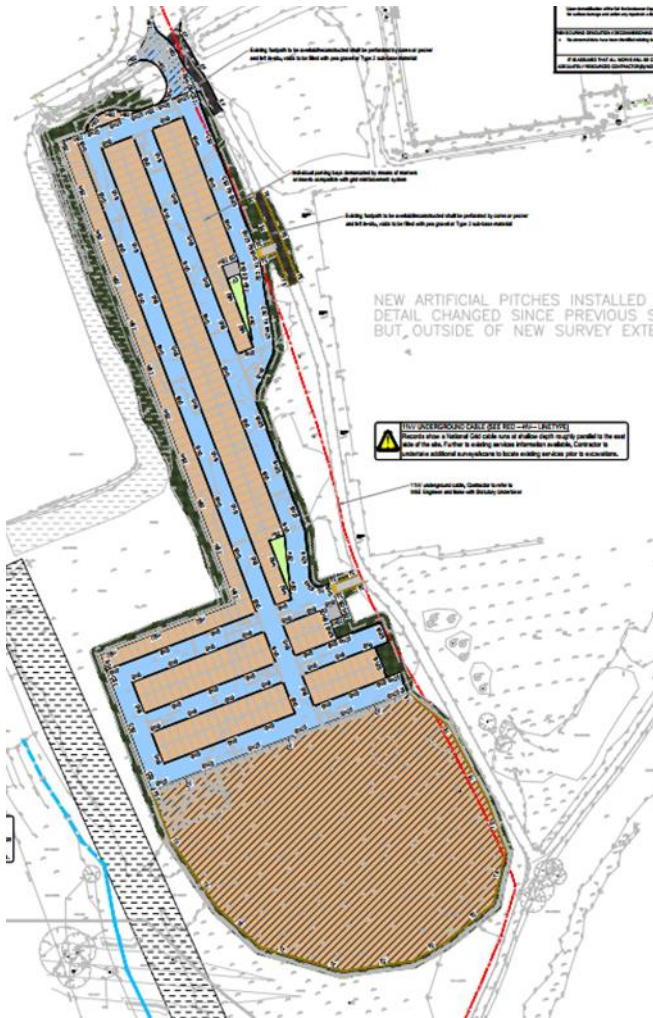
The proposed changes as part of this application are:

**Materials** – The approved scheme includes the following materials details for the car park:





Through detailed design work this has been refined to the following:



Materials Plan

**KEY**

- Site entrance construction (asphalt)
- Car park construction - stray/frequent HGV use only (asphalt)
- Existing carriageway to be resurfaced (asphalt)
- Le staggered joint in flexible carriageway detail
- Parking bay construction - stray/frequent HGV use only (gravel/chippings with grid reinforcement system)
- Temporary toleration site construction - stray/frequent HGV use only (gravel/chippings)
- Footpath construction (asphalt)
- Existing footpath to be reconstructed to new levels (asphalt)
- Soft landscaping (refer to Landscape Architect)
- Existing soft landscaping to be re-graded and made good (refer to Landscape Architect)
- Tactile Paving (Corduroy)

**Kerb Key**

Key	Description	Size
HB2	Half battered kerb	(255 x 125)
SD	Single length drop kerbs	(255/178 x 125)
BN25	Bull nosed kerb (25mm upstand)	(150 x 125)
BN0	Bull nosed kerb (0-6mm upstand)	(150 x 125)
CS2	Channel square	(150 x 125)
EF	Square edging	(150 x 50)
TE	Timber edging	(150 x 19)
TR	Transition kerb	Varies

Materials Key

**Lighting scheme** - The revised lighting scheme is proposed to make the scheme compliant for car parking standards under BS EN 5489 Code of Practice for the Design of Road Lighting, BS EN 13201 Road Lighting, and, Secured by Design Lighting Against Crime.

**Drainage** - The surface water drainage strategy remains in line with the consented design, with the same rates, but during technical design development it has moved away from the permavoid collector tanks to perforated pipes which will provide a more suitable collection method and will be much easier to inspect and maintain. The car park level is higher than the predicted flood levels and was therefore not part of the flood risk discussions. The drainage is also not subject to Section 104 sewer adoption by South West Water.

**Levels** – Due to design advancements to implement the approved permission there are the following variance in levels on the toleration site and car park:

Craddys have commented as follows in regards to maximum and minimum levels of the car park and toleration site surfaces:

	Approved Design 73606	Proposed as Non- material Change	Variance
Highest level	9.79m	9.83m	+0.04m
Lowest Level	7.57m	7.84m	+0.27m

In terms of the changes identified above the below is the commentary on concluding the materiality of these changes:

### **Design**

The proposed changes would have a largely indiscernible impact on the design of the development. There would be less physical lighting pillars improving appearance of the car park and materials, levels and drainage changes would not impact on the wider setting of the site. As such these changes are considered to be non-material and continue to accord with Policies ST04, DM08 and DM08A of the NDTLP and paragraph 135 of the NPPF.

### **Amenity**

The proposed changes would not impact on neighbouring amenity given the separation distances from residential properties and the proposed use of the site itself and neighbouring uses. As such the scheme continues to comply with Policies DM01 and DM02 of the NDTLP.

### **Flood Risk and Drainage**

As confirmed in the statement supplied the drainage and level changes would not impact on the original calculations and flood risk considerations of the site. The increase in levels would further reduce any flood risk and the drainage changes are confirmed to be non-material to the Lead Local Flood Authority. As such the scheme would continue to comply with Policies ST03 and DM04 and flood risk objectives of the NPPF.

### **Highways**

The proposed lighting changes would bring the safety standards of the car parking area to an expected level as laid out in BS EN 5489 Code of Practice for the Design of Road Lighting, BS EN 13201 Road Lighting, and, Secured by Design Lighting Against Crime. There are no changes or implication to the highway network as a result of the changes therefore the scheme would continue to comply with Policies ST10, DM05 and DM06 of the NDTLP and highway objectives of the NPPF.

### **Ecology**

The proposed lighting scheme provides a greater average illuminances using fewer lighting columns. The applicant's ecologist has confirmed by an updated LEMP that these changes are consistent with the ES and Bat Survey report presented as part of 73606 and will be monitored by post completion surveys where further mitigation measures can be introduced where necessary.

Given the control measures in place through the LEMP and level of changes proposed these are not considered to be material and as such the overall scheme continues to comply with the Statutory wildlife duties outlined in 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), the requirements of Policy DM08 of the NDTLP and the ecological objectives of the NPPF.

## **Conclusion**

The proposal is for a minor change to the development already granted planning permission. The proposed amendment does not alter the development significantly from what was approved on the original planning permission and does not conflict with any conditions of the permission. No adopted planning policy is breached. As such approval is recommended.

## **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**

### **Approval**

Legal Agreement Required: No

## **Informatives**

1. Having now considered the submitted details 2153-KTA-XX-XX-DR-A-0500P1 Location Plan Car Park Application received on the 23/08/23  
50353-DY-01-XX-DR-CE-0505P05 Car Park Construction Details received on the 21/08/23  
50353-CDY-01-XX-DR-CH-0002P08 Car Park Construction Layout received on the 21/08/23  
01076-DFL-XX-XX-DR-E-703-003P2 Car Park External Electrical Services received on the 21/08/23  
50353-CDY-XX-01-DR-CE-0500P01 Car Park Gas Venting Strategy received on the 21/08/23  
50353-CDY-01-XX-DR-CH-0001P14 Car Park General Arrangement received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0510P05 Car Park Levels & Contours received on the 21/08/23  
50353-CDY-01-XX-DR-CH-0003P05 Car Park Road Markings received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0520P03 Car Park Sections Sheet 1 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0521P03 Car Park Sections Sheet 2 of 9 received on the 21/08/23

50353-CDY-01-XX-DR-CE-0522P03 Car Park Sections Sheet 3 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0523P03 Car Park Sections Sheet 4 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0524P03 Car Park Sections Sheet 5 of 9 received on the 21/08/23  
50353-CDT-01-XX-DR-CE-0525P03 Car Park Sections Sheet 6 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0526P03 Car Park Sections Sheet 7 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0527P03 Car Park Sections Sheet 8 of 9 received on the 21/08/23  
50353-CDY-01-XX-DR-CE-0528P03 Car Park Sections Sheet 9 of 9 received on the 21/08/23  
50353-CDY-XX-XX-DR-CD-0095P03 Car Park Toleration Site Drainage Details Sheet 1 received on the 21/08/23  
50353-CDY-XX-XX-DR-CD-0096P04 Car Park Toleration Site Drainage Details Sheet 2 received on the 21/08/23  
50353-CDY-01-XX-DR-CD-0090P08 Car Park Toleration Site Proposed Drainage Arrangement received on the 21/08/23  
50353-CDY-01-XX-DR-CD-0097P01 Car Park Toleration Site Proposed Surface Water Outfall Layout Section received on the 21/08/23  
50353-CDY-XX-XX-DR-CD-0098P01 Car Park Toleration Site Surface Water Outfall Drainage Details Sheet 1 received on the 21/08/23  
50353-CDY-01-XX-DR-CD-0099P03 Car Park Toleration Site Surface Water Outfall Drainage Details Sheet 2 received on the 21/08/23  
GE-SB-01G Car Park Landscape Plan received on the 21/08/23  
01076-DFL-XX-XX-DR-E-703-004P2 External Lighting Scheme Southern Car Park received on the 21/08/23  
CGE/16959D Rev 2 Seven Brethren Surface Emission Report July23 received on the 21/08/23  
Craddys Drainage Statement received on the 21/11/23  
REP-01076-2B-PRM External Lighting Clarification P1.pdf received on the 21/11/23  
the Local Planning Authority have determined that these are acceptable as a non-material amendment to application 73606

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 73606 and the conditions and informatives relating to this previous consent remain applicable.

**END OF REPORT**