



## **Application Report**

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

<b>Application No:</b>	77952
<b>Application Type:</b>	Full Application
<b>Application Expiry:</b>	15 March 2024
<b>Extension of Time Expiry:</b>	15 March 2024
<b>Publicity Expiry:</b>	2 February 2024
<b>Parish/Ward:</b>	BARNSTAPLE/BARNSTAPLE WITH PILTON
<b>Location:</b>	Land at Mill Road Barnstaple Devon EX31 1JQ
<b>Proposal:</b>	Change of use from council depot (Sui Generis) to vehicle storage (B8)
<b>Agent:</b>	Mr Lewis Andrews
<b>Applicant:</b>	Mr Carl Metcalfe
<b>Planning Case Officer:</b>	Mr M. Brown
<b>Departure:</b>	N
<b>EIA Development:</b>	
<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	Committee North Devon District Council are the landowner.

### **Site Description**

The site is currently vacant with a building to the northern extremity of the site fronting Mill Road. To the north of the site across the road there are residential properties, to the north-east of the site boundary there are terraced properties abutting the site. To the east there is a commercial operation along with the Sea Scouts building. To the south is the Tarka Trail and the convergence of the River Yeo and River Taw. Whilst, to the west is a commercial operation which includes vehicle storage along with a collection of buildings, some of which are in disrepair.

The site is reasonably level albeit set slightly above Mill Road.

### **Recommendation**

#### **Approved**

Legal Agreement Required: No

### **Planning History**



The site viewed from Mill Road



Site viewed from across the neighbouring site from the northwest



Site viewed from across the neighbouring site from the northwest



Site viewed from across the site from the (Tarka Trail)

	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>44971</b>	RESERVED MATTERS APPLICATION FOR ERECTION OF 50 FLATS & 21 HOUSES TOGETHER WITH LANDSCAPING & RELATED INFRASTRUCTURE WORKS (OUTLINE PLANNING PERMISSION 44195) (AMENDED SCHEME) (AMENDED DESCRIPTION) (AMENDED PLANS) at LAND AT ROLLE QUAY (FORMER GLIDDON & SQUIRE SITE), MILL ROAD, BARNSTAPLE, EX311JH		
<b>NA/761</b>	PROPOSED CONVERSION: LIMEKILN TO IMPLEMENT SHED at O.S. 155, POTTINGTON ROAD, , BARNSTAPLE, DEVON, EX31 1JH	APPROVE - NO CONDITIONS	27 July 1954
<b>21904</b>	RETROSPECTIVE APPLICATION IN RESPECT OF CONTINUED SITING OF 2 NO. PORTACABINS at SOUTH WEST HIGHWAYS DEPOT, MILL ROAD, BARNSTAPLE, EX311JQ	FULL PLANNING APPROVAL	14 May 1996

	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>34550</b>	APPLICATION UNDER REGULATION 3 OF THE T & C P GENERAL REGULATIONS 1992 IN RESPECT OF TEMPORARY CHANGE OF USE OF EXISTING DCC HIGHWAYS DEPOT TO LIGHT INDUSTRIAL USE (CLASSES B1 & B8 WAREHOUSE & STORAGE) (AMENDED DESCRIPTION) at HIGHWAYS DEPOT, MILL ROAD, , , BARNSTAPLE, DEVON, EX31 1JQ	WITHDRAWN	15 August 2005
<b>41917</b>	REMOVAL OF CONDITION 26 (BARNSTAPLE WESTERN BYPASS SAFEGUARD) ATTACHED TO PLANNING PERMISSION 9552 at GLIDDON & SQUIRE, POTTINGTON ROAD / MILL ROAD, BARNSTAPLE, EX311JH	FULL PLANNING APPROVAL	16 May 2006
<b>42705</b>	VARIATION OF CONDITION 1(A) (TIME RESTRICTION) ATTACHED TO PLANNING PERMISSION 41917 TO EXTEND THE TIMESCALE BY 1 YEAR (FROM 3 YEARS TO 4 YEARS ) at LAND AT (FORMERLY GLIDDON & SQUIRE), POTTINGTON ROAD/ MILL ROAD, BARNSTAPLE, EX311JH	FULL PLANNING REFUSAL	19 October 2006
<b>44195</b>	VARIATION OF CONDITION 17 (PARKING PROVISION) ATTACHED TO OUTLINE PLANNING PERMISSION 41917 TO REDUCE THE PARKING PROVISION REQUIREMENT TO 0.75 SPACES PER DWELLING IN COMMUNAL AREAS at LAND AT ROLLE QUAY (FORMER GLIDDON & SQUIRE SITE), MILL ROAD, BARNSTAPLE, EX311JH	OL APPROVAL	26 July 2007
<b>44196</b>	RESERVED MATTERS APPLICATION FOR ERECTION OF 156 FLATS TOGETHER WITH LANDSCAPING & RELATED INFRASTRUCTURE WORKS (OUTLINE PLANNING PERMISSION 44195) (AMENDED DESCRIPTION) at LAND AT ROLLE QUAY (FORMER GLIDDON & SQUIRE SITE), MILL ROAD, BARNSTAPLE, EX311JH	FULL PLANNING REFUSAL	26 July 2007
<b>47501</b>	PRIOR NOTIFICATION FOR DEMOLITION OF BUILDINGS, FUEL TANKS & FENCE at FORMER DEVON COUNTY COUNCIL DEPOT, MILL ROAD, BARNSTAPLE, EX311JQ	DEMO PRIOR APP NOT REQ	30 October 2008

## Constraints/Planning Policy

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Advert Control Area Area of Special Advert Control	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 45.7m	Within constraint
Crown Estates Registered Title	2.51
Land is potentially contaminated with:Tanks	Within constraint
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1890	Within constraint
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1932	Within constraint
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1938	Within constraint
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1964	Within constraint
Landscape Character is: 7 Main Cities and Towns	Within constraint
Public Right of Way:Footpath 204FP29	2.12
Risk of flooding from: Wistlandpound, reservoir with risk level High-risk	Within constraint
Unclassified Road	
USRN: 27501040 Road Class:R Ownership: Highway Authority	2.53
USRN: 27504152 Road Class:G Ownership: Highway Authority	3.16
USRN: 27505364 Road Class:YFP Ownership: Highway Authority	2.12
USRN: 27507553 Road Class:Q Ownership: Private	3.28
Within adopted Development Boundary: Barnstaple North Development Boundary DM04	Within constraint
Within Adopted Sports Hub: Barnstaple Rugby Club	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within:, SSSI 500M Buffer in North Devon,consider need for AQIA if proposal is for anaerobic digester without combustion plant	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
BAR - Barnstaple Spatial Vision and Development Strategy DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways	

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM12 - Employment Development at Towns, Local Centres and Villages 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	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Barnstaple Town Council  Reply Received 19 January 2024	RECOMMENDATION: To approve in accordance with the conditions recommended by the Council's Environmental Health Officer and subject to any highways comments that the case officer may receive. (NC).
Councillor I Roome  Reply Received	No objection received.
Councillor J Orange  Reply Received	No objection received.
Councillor M Lovering  Reply Received	No objection received.
DCC - Development Management Highways  Reply Received 1 February 2024	Observations: The use of the site as storage for vehicles only would be acceptable, but as other uses within class B8 would not be acceptable as those can have significant levels of movement associated with them.  The use of the access via the applicant's site is noted, and it should be conditioned somehow to avoid the use of the access directly on to Mill Road as it is limited in terms of visibility.  It should be noted that the Barnstaple with Bideford and Northam Local Cycling and Walking Infrastructure Plan indicates a future aspiration for a cycle route through this land from the Tarka Trail to Rolles Quay and this proposal should not prejudice that aspiration.  Recommendation:

Name	Comment
	<p>The Director Of Climate Change, Environment And Transport, On Behalf Of Devon County Council, As Local Highway Authority, Recommends That The Following Conditions Shall Be Incorporated In Any Grant Of Permission</p> <p>1. The permission shall only allow the storage of vehicles.</p> <p>REASON: In the interest of highway safety due to the level of traffic likely to be generated from the site.</p> <p>2. Access to the site shall be from the west, as shown on the location plan.</p> <p>REASON: In the interest of highway safety due to the substandard nature of the site access directly onto Mill Road.</p>
<p>DCC - Public Rights Of Way</p> <p>Reply Received</p>	<p>No objection received.</p>
<p>Environment Agency</p> <p>Reply Received 26 January 2024</p>	<p>The site lies within Flood Zone 3; however the proposal appears to be a change of use from a less vulnerable use to a less vulnerable use. Given that there is no change in vulnerability and have no bespoke comments to make. Standing advice applies.</p>
<p>Environmental Health Manager</p> <p>Reply Received 21 December 2023</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>Noise</p> <p>The site is located close to a number of existing dwellings. Certain uses of the site under a B8 use class, such as those involving frequent access by heavy goods vehicles, uses occurring at night, or the presence of operating mobile refrigeration units, could give rise to significant noise impacts.</p> <p>Based on the proposals described in the supporting statement, I do not anticipate that any significant noise problems will arise in this case.</p> <p>In order to ensure that the site is used as proposed and not for uses that are likely to give rise to noise impacts at nearby residential properties, I recommend consideration be given to limiting any permission to the B8 uses described in the supporting statement. Perhaps this could be achieved via a condition along the following lines:</p> <p>- Restricted B8 Uses Condition</p> <p>Permission is granted for use of the site for the storage of commercial vehicles only, as described in the approved Planning Support Statement.</p>

Name	Comment
	Reason: To protect the amenity of residential neighbours from the potential effects of noise arising in connection with alternative uses of the site that would otherwise be permitted under Use Class B8 (storage and distribution).
Sustainability Officer  Reply Received 15 December 2023	No comment

**Neighbours / Interested Parties**

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

**Considerations**

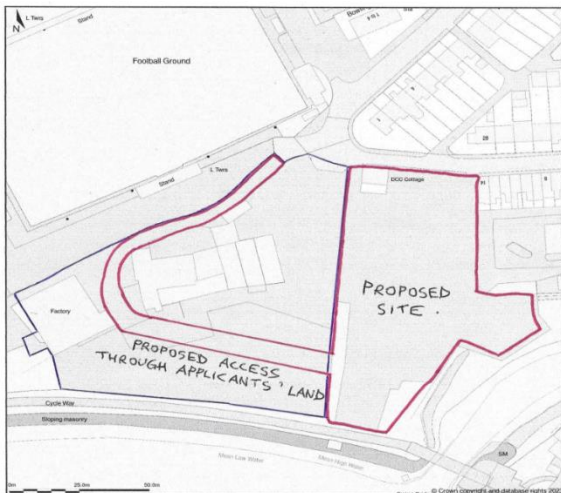
**Proposal Description**

This application seeks to change the use of the land from the former use which is deemed to be a “sui generis” use (Council Depot) to a B8 use solely for the storage of vehicles as a commercial operation.

No buildings or operational development is proposed.

It is proposed that the site will be used in association with the existing operation of the neighbouring site.

As well as retaining the existing access point from the highway access will also be made available from within the neighbouring site.



Location Plan



Aerial View of site

## **Planning Considerations Summary**

- Principle of development
- Design
- Amenity
- Ecology
- Flood risk and drainage
- Highways

### **Principle Of development**

Policy BAR and DM12 seek to ensure employment growth along with a mix of high quality development subject to consideration of fundamental development management criteria.

Furthermore the site is located within the development boundary of the strategic centre (ST06) and as such seeks to support the functions of the centre through the provision of appropriate development, including that of employment.

Given the foregoing the scheme is supported in principle given the wider economic benefits that may result. Further site-specific criteria are considered below.

### **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.

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

### **Design/Heritage**

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.

No change in terms of design is proposed given that the scheme seeks purely a change of use of the land. The storage of vehicles will be akin to the existing use as a council depot in essence. As such no objection is raised in this regard.

### **Amenity**

Policies DM01 and DM02 allow for the consideration of amenity impacts as part of a planning application.



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.

Policy DM02 confirms that development will be supported where it does not cause an unacceptable risk to public health and safety due to contamination nor through pollution, noise or vibration.

Providing the use is controlled it is unlikely that the proposal will give rise to significant immunity concerns having particular regard to the current authorised use of the site. To ensure such matters are controlled it is considered reasonable to apply a planning condition controlling the use.

### **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 (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations 2019).

In terms of the location of the site, it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2019. Due to the nature of the proposal no impact on the SAC is identified.

The nature of the proposal will not result in an impact on ecology given the existing use of the proposal. Given that this application is purely for a change of use of the land which is currently set to concrete it is not considered reasonable to secure a net gain in biodiversity at this time.

### **Flood Risk and Drainage**

The site is located in a flood zone 2/3 and as such there is a need to ensure that the development demonstrates that it is acceptable in this regard noting Policy ST03 and the NPPF.

A simple site-specific flood risk assessment has been carried out by the applicant to assess the flood risk to and from a development site. Planning Practice Guidance sets out in terms of changes of use that even if a development's vulnerability is not increasing, change of use can often present an opportunity to improve the flood resilience of existing development.

The proposed use sits within the same flood risk vulnerability as the existing use and the change of use will not generate increased flood risk. Given that this relates to a change of use of land and not a building there are limited consequences in this instance and not that vehicles will be stored on site, as they would have been as part of the existing use, flood risk impacts are limited and difficult to improve upon on this instance. Taking a pragmatic approach it is considered that flood risk is acceptable in this instance.

Notwithstanding the foregoing, to ensure that the site operator is aware of the potential flood risk it is considered reasonable to apply an informative suggesting that the operator subscribe to the Environment Agency Flood Line so that they can manage such events.

## **Highways**

Policies DM05 and DM06 of the adopted local plan allow for the consideration of highway matters whilst the NPPF also sets out the need to consider sustainability and safe access and egress for all to a site.

The Highway Authority has set out:-

*“The use of the site as storage for vehicles only would be acceptable, but as other uses within class B8 would not be acceptable as those can have significant levels of movement associated with them.*

*The use of the access via the applicant's site is noted, and it should be conditioned somehow to avoid the use of the access directly on to Mill Road as it is limited in terms of visibility.*

*It should be noted that the Barnstaple with Bideford and Northam Local Cycling and Walking Infrastructure Plan indicates a future aspiration for a cycle route through this land from the Tarka Trail to Rolles Quay and this proposal should not prejudice that aspiration.”*

There will be a change in the character of traffic attracted to the site. There are likely to be fewer movements given the nature of the proposed use. Whilst the proposed access route results in the use of an improved junction with visibility at the main highway junction. Applying a planning condition to control the overall use of the site is considered reasonable, however in this instance it is considered that a planning condition controlling the access point is not necessary given the proposed use, how the site is intended to operate in conjunction with the neighbouring site and the nature of the existing access which will naturally discourage its use, on balance.

As such and overall the scheme is considered acceptable in light of the Policy context in terms of highways matters subject to the imposition of a planning condition.

## **Conclusion**

The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

## **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

## **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:  
NDC001 Location Plan received on the 15/11/23  
Mill Road - Barnstaple - Planning Statement.pdf received on the 15/11/23  
(‘the approved plans’).

Reason:

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

3. Permission is granted for use of the site for the storage of vehicles only, as described in the approved Planning Support Statement, should the use hereby approved cease the authorised use of the site shall revert to sui generis (Council Depot).

Reason:

To protect the amenity of residential neighbours from the potential effects of noise arising in connection with alternative uses of the site that would otherwise be permitted under Use Class B8 (storage and distribution) and in the interests of highway safety and having regard to flood risk having regard to Policies DM01, DM02, DM05 and ST03 of the adopted Local Plan.

## **Informatives**

1. The site is located within a flood zone. It is therefore recommended that the site operator subscribes to flood warnings from the Environment Agency <https://www.gov.uk/sign-up-for-flood-warnings> and prepares a flood risk emergency plan for use in a flood event and that this should be reviewed at least annually.
2. The submitted drawings have been numbered as set out in condition 2. Please refer to the planning application tracker on the District Council's website to view the drawings and their allocated numbers, <http://planning.northdevon.gov.uk/search.asp>
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 and has imposed planning conditions to enable the grant of planning permission. This has included

consideration of principle of development, design, ecology, flood risk, amenity and highway safety.