

# Application Report

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



<b>Application No:</b>	78488
<b>Application Type:</b>	NDC Regulation 3
<b>Application Expiry:</b>	5 June 2024
<b>Extension of Time Expiry:</b>	
<b>Publicity Expiry:</b>	23 May 2024
<b>Parish/Ward:</b>	ILFRACOMBE/ILFRACOMBE EAST
<b>Location:</b>	Runnymede Gardens Wilder Road Ilfracombe Devon
<b>Proposal:</b>	Application under Regulation 3 of the T & C P General Regulations 1992 notification by NDC for removal of existing stone retaining wall & reconstruct new cavity retaining wall with stone facing to match existing
<b>Agent:</b>	Tara Jenkins
<b>Applicant:</b>	Tara Jenkins
<b>Planning Case Officer:</b>	Mr K. Webster
<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 The application has been submitted by NDDC

## Site Description

Runnymede Gardens (or Jubilee Gardens) Car Park is a small area of North Devon Council-owned pay-and-display car parking near Ilfracombe Museum. The car park is to the north of Runnymede Gardens and the retaining wall is between Runnymede Gardens and the car park.

The car park is somewhat sunken into the topography, below the ground level of Runnymede Gardens. The retaining wall supports the ground above between the car park and Runnymede Gardens where there are trees, plants and other vegetation. It has been in need of structural support until it can be repaired. The wall is currently surrounded with temporary fencing and has wooden diagonal supports to prevent subsidence/collapse. This has reduced the size of the car park and its turning space.

The wall is of natural stone. It is within the Ilfracombe Conservation Area. Ilfracombe Museum, accessed via this car park area, is a Locally Important Building.



**Recommendation**

**Approved**

Legal Agreement Required: No

**Planning History**

Reference Number	Proposal	Decision	Decision Date
20161	APPLICATION UNDER REGULATION 3 OF THE T & C P GENERAL REGULATIONS 1992 PROPOSED ERECTION OF NEW PAVILION COMPRISING THEATRE,	FULL PLANNING APPROVAL	24 October 1995

Reference Number	Proposal	Decision	Decision Date
	WINTERGARDEN, TOURIST FACILITIES & IMPROVEMENTS TO SURROUNDING PARK AND PARKING AREA (AMENDED PLANS) at LAND OFF, WILDER ROAD, ILFRACOMBE, EX34 9BZ		

### **Constraints/Planning Policy**

Constraint / Local Plan Policy	Distance (Metres)
Adopted Tourist Area: Ilfracombe Harbour and Seafront Policy Ref:ILF05	Within constraint
Advert Control Area: Area of Special Advert Control	Within constraint
Advert Control Area: Ilfracombe	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Conservation Area: 18 Ilfracombe (Adopted 08/09/2009)	Within constraint
Critical Drainage Area	Within constraint
Landscape Character is: 7 Main cities and towns	Within constraint
Risk of flooding from: Lower Slade, reservoir with risk level High-risk	Within constraint
Risk of flooding from: Slade Upper, reservoir with risk level High-risk	Within constraint
USRN: 27502155 Road Class: C Ownership: Highway Authority	3.41
Within: 100m of Adopted Marine Conservation Zone (ST09 & ST14)	99
Within: Adopted Coast and Estuary Zone	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: Exmoor Heaths, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Conservation Area: ILFRACOMBE	
DM01 - Amenity Considerations DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment DM08 - Biodiversity and Geodiversity ST04 - Improving the Quality of Development ST09 - Coast and Estuary Strategy ST14 - Enhancing Environmental Assets ST15 - Conserving Heritage Assets	

**Consultees**

<b>Name</b>	<b>Comment</b>
Heritage & Conservation Officer  Reply Received 2 May 2024	<i>Provided that the rebuilt wall has an appearance similar to that of the existing, i.e. stone-faced with local stone, I do not consider that this proposal will cause harm to the significance of the heritage asset.</i>
Ilfracombe Town Council	No comments received at the time of writing the report.
Councillor D Turton	No comments received.
Councillor J Williams	No comments received.
Councillor P Crabb	No comments received.

**Neighbours / Interested Parties**

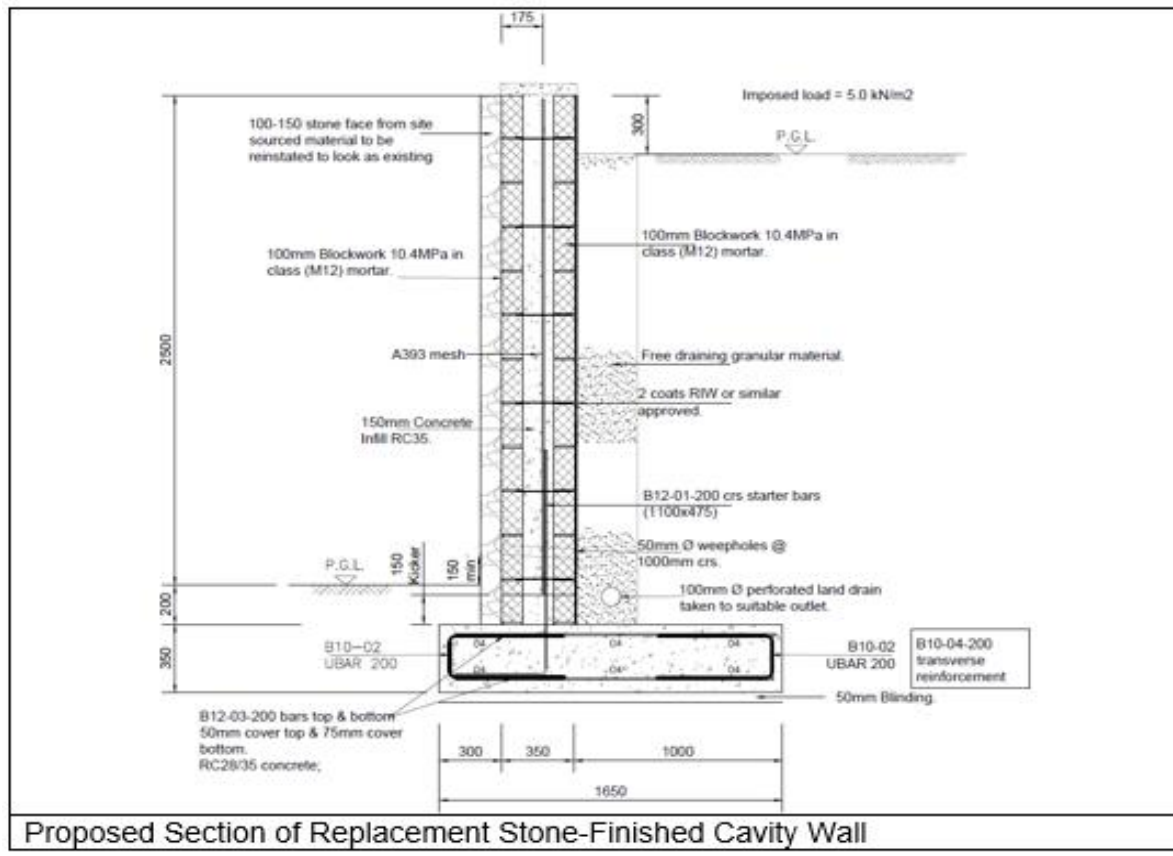
<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
0.00	0.00	0.00	0.00	0.00

At this time of writing, the consultation period remains open. There have yet to be any objections from members of the public or Ilfracombe Town Council. Should there be any changes to this circumstance, members will be informed at committee.

**Proposal Description**

This application seeks detailed Planning Permission (under Regulation 3 of The Town and Country Planning General Regulations 1992) for the removal of an existing stone retaining wall to be replaced with a new cavity retaining wall finished with stone to match the existing.





### **Planning Considerations Summary**

- Design and Impact on the Setting of heritage asset
- Amenity Considerations
- Impact on Ecology
- Highways Safety
- Drainage and Flood Risk

### **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.

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.

### **Design and Impact on the Setting**

Policy ST04 (Improving the Quality of Development) 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 (Design Principles) of the Local Plan requires development to 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.

Policies ST15 (Conserving Heritage Assets) and DM07 (Historic Environment) of the Local Plan require that development must follow design principles that will be appropriate and sympathetic to the setting and be carried out in order to preserve and enhance heritage assets and their landscapes.

Policy ST09 (Coast and Estuary Strategy) is a consideration as the site is located within the Coast and Estuary Zone and as such, any development in this area will need to ensure that it does not detract from the character, appearance and heritage of the area, while maintaining and enhancing the sustainability of the community.

The retaining wall between Runnymede Gardens and Jubilee Gardens Car Park by Ilfracombe Museum has become damaged, seemingly due to subsidence. A short section of the retaining wall has been closed off with fencing and propped/supported with joists for a number of years. However, at the time of writing, the entire site has been surrounded with temporary metal fencing, which is resulting in harm to the appearance of the Ilfracombe Conservation Area and the setting of the nearby Locally Important Buildings such as Ilfracombe Museum.

It is proposed for this retaining wall to be replaced with a new cavity wall that would be finished with natural stone that, according to the plans, would be site-sourced such that the replacement wall would match the existing in terms of appearance. It can be assumed that the replacement of this wall would allow for the site to have its fencing and temporary supports removed to improve the appearance of the area.

The Council's Heritage and Conservation Officer was part of the design process and left the following consultation comment:

*Provided that the rebuilt wall has an appearance similar to that of the existing, i.e. stone-faced with local stone, I do not consider that this proposal will cause harm to the significance of the heritage asset.*

It is considered that the replacement of the retaining wall would result in an improvement to the wall itself and the wider setting of the Conservation Area. As such, the proposed development is, subject to condition, considered acceptable in terms of design and in accordance with policies ST04, DM04, ST15, DM07 and ST09 of the North Devon and Torridge Local Plan and the Duty above.

### **Amenity Considerations**

Policy DM01 (Amenity Considerations) of the Local Plan states development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses; and the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The existing wall raises concern with regard to the public safety, hence why the site has been surrounded with temporary fencing. It is considered that the replacement of this wall would result in a betterment in terms of safety and the amenities of the users of the adjacent car park, Runnymede Garden and Ilfracombe Museum.

As such, the proposed development is considered acceptable and in accordance with policy DM01 of the Local Plan.

### **Impact on 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).

Policy ST14 (Enhancing Environmental Assets) of the Local Plan aims to protect and enhance northern Devon's natural environment by ensuring that development contributes to providing a net gain in biodiversity where possible.

Policy DM08 (Biodiversity and Geodiversity) of the Local Plan requires development should conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance.

With regards to ecology, the red line boundary only covers the replacement of the wall itself and not a wider area for planting or landscaping to be provided in order to secure a biodiversity net gain. As a result, it is considered that securing a biodiversity net gain to be achievable or appropriate with this application.

Despite the above, it is noted that the provision of a new, more secure, retaining wall here would allow for the above soils, trees and planting to be conserved. Furthermore, going forward, the area would have the potential to be used to provide further planting for the benefit of biodiversity and the setting alike.

Given the information received in this case, provided there is no harm to the existing ecology, the proposal would be considered acceptable and in compliance with policies ST14 and DM08 along with relevant policies of the NPPF.

### **Highways Safety**

Policy DM05 (Highways) of the Local Plan states 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.

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

The existing car park is limited in space due to the safety barriers and fencing by the existing retaining wall. The provision of a replacement retaining wall should allow for this temporary fencing to be removed. This would improve the space provided in Jubilee Car Park, improving highways safety, accessibility and parking provision.

As such, the proposed development is considered acceptable and in accordance with policies DM05 and DM06 of the Local Plan.

### **Drainage and Flood Risk**

Policy ST03 (Adapting to Climate Change and Strengthening Resilience) of the Local Plan states development will be supported where it would take account of impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by (among other things) minimising runoff in Flood Zones and Critical Drainage Areas.

The site is within Flood Zones 2 and 3 and is with a Critical Drainage Area. The proposed development would have a layer of granular permeable material behind the retaining wall that would allow water to access a land drain at the base of the retaining wall. This would contribute towards the management of ground water and slowing of runoff for the land above the replacement retaining wall.

As such, the proposal is, subject to condition, considered acceptable and in accordance with policy ST03 of the Local Plan.

### **Conclusion**

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.

### **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:  
05720E\_SK01C Retaining Wall Runnymede Gdns Ilfracombe - 05720E  
RW\_08\_03\_2024.pdf received on the 18/03/24  
NDC001 Location Plan received on the 10/04/24  
(‘the approved plans’).

Reason:

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

3. The exterior/exposed face of the retaining wall hereby approved shall replicate the existing retaining wall in colour, form and texture by using local natural stone, laid to replicate the existing.

Reason:

In the interests of the appearance of the development and locality in accordance with policies ST04, DM04, ST15, DM07 and ST09 of the North Devon and Torridge Local Plan.

## **Informatives**

1. 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>
2. 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: Design and Impact on the Setting; Amenity Considerations; Impact on Ecology; Highways Safety; and, Drainage and Flood Risk.