

Committee Report – 4 November 2022

Application Number:	1/0863/2022/LA
Registration date:	12 September 2022
Expiry date:	7 November 2022
Applicant:	Torridge District Council
Agent:	Mr Geraint James
Case Officer:	James Jackson
Site Address:	Land At Grid Reference 247387 125654, Trapnell Way, Bideford Business Park, East The Water, Devon,
Proposal:	Formation of construction access (Environment Centre)
Recommendation:	GRANT



Reason for referral:

The applicant is Torridge District Council.

Relevant History:

Application No.	Description	Status	Closed
1/1207/2015/FULM	Business letting units car parking lots, access, drainage and landscaping (Plots 3)	PER	19.01.2017
1/0896/2019/DIS	Discharge of Condition 4 of Planning Approval 1/1207/2015/FULM	PER	14.11.2019

Site Description & Proposal

Site Description

The application relates to part of an agricultural field located within the Bideford development boundary.

The site is bounded at its southern edge by a mature hedgerow that separates the field from the public highway.

To the east of the site is an existing field access and hedgerow. The Evans Transport industrial estate is located to the north west. An existing dwelling known as 'Bay View' is located to the west. The urban area of East-the-Water is located further to the north west.

Proposed Development

The application seeks full planning permission for the formation of a construction access.

The access would be used for the construction of the Torridge District Council Environment Centre, a planned facility for the processing of household recycling materials and food waste. The Environment Centre does not have planning permission and will be subject to a separate future application.

A section of existing hedgerow would be removed to form the access, including visibility splays. A temporary access road would be constructed to facilitate access across the field. Soft landscaping and an infiltration swale would be introduced on either side of the road.

The site would be returned to its current condition once the access is no longer required.

Consultee representations:

Bideford Town Council:

RESOLVED: That the application is approved.

Devon County Council (Highways):

First Response

Observations:

I have no objection to the application subject to it somehow being linked to the future unsubmitted application for land to the north and not being used for anything other than construction of that site - subject to it gaining separate planning permission.

It must also be closed off after the site to the north is constructed unless a subsequent application approves its full time use as an access.

I leave such conditions to be written by the Local Planning Authority.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

Second Response

The access hereby approved onto Gammaton Road shall be only used for construction activities associated with land immediately adjacent to the application site.

REASON: To prohibit use of the access by all traffic and as a general access to the site and beyond.

Once constructed the access shall be permanently closed with gates that only open inwards and shall not be used unless and until land adjacent to the application site gains relevant planning permission for uses that require construction access.

REASON: To allow the access to be built but not used.

The access shall be constructed such that no surface water drains on to the highway.

REASON: In the interest of highway safety and avoid damage to the highway.

Third Response

Visibility splays to be provided as per the approved plans.

Environmental Protection Officer:

In relation to the above application, the Environmental Protection Team has no objections in principle.

Due to the proximity of an existing neighbouring dwelling to the west, there is the potential for detriment to residential amenity from the construction works associated with the proposed development if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and delivery times to 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

Representations:

Number of neighbours consulted:	1	Number of letters of support:	0
Number of representations received:	1	Number of neutral representations:	0
Number of objection letters:	1		

One objection has been received, which raises the following issues:

- Notification insufficient
- Site is within open countryside
- Pollution
- Visual impact
- Noise
- Odour
- Property value (not a material consideration)
- Site designated as woodlands
- Privacy

- Dust
- Security

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST04 (Improving the Quality of Development); DM04 (Design Principles); ST14 (Enhancing Environmental Assets); DM08A (Landscape and Seascape Character); DM01 (Amenity Considerations); DM08 (Biodiversity and Geodiversity); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); ST03 (Adapting to Climate Change and Strengthening Resilience); DM02 (Environmental Protection);

Government Guidance:

NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); NERC (Natural Environment & Rural Communities); WACA (Wildlife & Countryside Act 1981);

Planning Considerations

The main considerations pursuant to the application are:

- Principle of Development
- Character and Appearance
- Residential Amenity
- Biodiversity
- Highways
- Surface Water Drainage
- Other Matters

1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

The site lies within the defined development boundary of Bideford. Policy ST06 of the North Devon and Torridge Local Plan 2011-2031 (the "NDTLP") clarifies that the Strategic Centre of Bideford will provide a focus for housing and employment development; that significant levels of development will be accommodated in Bideford consistent with its scale and its complementary role to Barnstaple; and that sustainable development opportunities will be secured to increase self-containment and achieve balanced development to enable the town to meet its own needs and those of the surrounding area.

The proposed access would facilitate the construction of the Torridge District Council Environment Centre, which would be subject of a separate future application. Whilst it is noted that the Environment Centre does not currently have planning permission, it is understood that the works to form the construction access would be undertaken in advance, outside of the bird nesting season. Policy ST06 establishes that Bideford is expected to accommodate significant levels of development, and the proposed access would enable future development to come forward, if planning permission were to be granted. Given the site's location within the development boundary, the principle of development is considered acceptable, and the application is in accordance with Policy ST06.

2. Character and Appearance

Policies ST04 and DM04 of the NDTLP have a strong design focus and establish the need for development to be appropriate in, and have respect for, its context and setting. In addition, Policy ST14 sets a number of requirements relating to the protection of environmental assets, whilst Policy DM08A requires development to respect landscape character of both designated and undesignated landscapes and seascapes.

In this instance the landscape is undesignated.

The proposed access would have only a modest impact on the character and appearance of the area. Given the site's location within the development boundary it is expected that the surrounding area would accommodate significant levels of development. In particular, it is noted that land to the east is allocated for mixed use development including approximately 600 dwellings and a new school. In addition, it is noted that the access would be stopped up once it is no longer required. As such, any visual impact would be temporary.

Taking account of the above, the proposal is considered acceptable in the context of ST04, DM04, ST14 and DM08A.

3. Residential Amenity

Policy DM01 of the NDTLP confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses, or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04(i) follows a similar policy direction.

A residential property known as 'Bay View' is located approximately 100m to the west of the site. The occupier of the dwelling has raised objection to the proposal, on the basis of noise, pollution, dust, traffic, health hazards and security impacts. The objection clarifies that the author has a brain damaged son.

The objection appears to make reference to the perceived impacts of the Environment Centre, however Members are advised that the application under consideration does not include the Environment Centre. Rather, the application seeks permission solely for the construction road and the impact on the occupiers of the property must therefore be considered on this basis. In this regard, it is considered that the distance between the site and the dwelling, as well as the modest scale of the works and their temporary nature, would not result in a significant impact. It should also be noted that the site lies within the Bideford development boundary, where significant levels of development are expected. The site is not located within open countryside, as is suggested by the objection. Neither is the land designated to be woodlands. Planning permission 1/1207/2015/FULM (relating to plot 3 of the industrial estate) does not require the site to be planted out, whilst the discharge of condition application 1/0896/2019/DIS relates to condition 4 of that permission and a Construction and Environmental Method Statement. It is noted that an historic permission, reference 1/1116/2007/FUL, granted permission for a number of B1, B2 and B8 uses across a larger site. This permission was extended under reference 1/0030/2011/EXTM, which was granted in March 2011. Condition 3 of the permission required the submission of a scheme relating to tree planting, however it would appear that no details were ever submitted to discharge the condition and due to the time elapsed it is not possible for the local planning authority to enforce any breach of condition.

It is noted that the Environmental Protection Officer has requested a condition relating to hours of construction and deliveries, and it is recommended that this be attached to any forthcoming planning permission.

There are no other sensitive premises that would be affected by the proposal.

The proposal is considered to accord with policies DM01 and DM04(i).

4. Biodiversity

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 2010 (Habitats Regulations 2010). This is also supported by Policy DM08 of the NDTLP.

In addition, Policy ST14 seeks to deliver biodiversity enhancement through development.

The application is accompanied by a Hedgerow Survey prepared by Orbis Ecology dated 8 September 2022. The report advises that the section of hedgerow to be removed to form the access does not meet the criteria to be considered as 'important' as defined by the Hedgerow Regulations 199, nor does it meet the criteria for the Devon Biodiversity Action Plan habitat of species rich hedges. Notwithstanding, the hedge remains to be classified as priority habitat under the Natural Environment and Rural Communities Act 2006 (NERC). The Ecologist advises that the hedge has the potential to be used by nesting birds during breeding season and therefore advises that the proposed works should not be undertaken between 1 March and 31 August, unless an Ecologist has first inspected the hedge for active nests and confirmed in writing that no birds will be harmed.

The Ecologist also notes that the works are temporary and the section of hedgerow to be removed will be reinstated once the access is no longer required.

Taking account of the above, it is concluded that the proposal accords with the above-mentioned policies and other legislation.

5. Highways

Policies ST10 and DM05 of the NDTLP seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. In addition, DM06 of the NDTLP seeks to ensure that appropriate parking provision is delivered as part of development. Paragraph 111 of the NPPF advises that development should only be refused if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. Paragraph 110 states, inter alia, that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, should be cost effectively mitigated to an acceptable degree. Paragraph 110 also requires 'safe and suitable' access to the site to be achieved.

The Highways Authority has been consulted and advises that it has no objection, subject to conditions to ensure that the visibility splays are provided as approved, that the access can only be used in conjunction with the development of land adjacent to the access and that the proposal shall ensure that surface water does not drain onto the public highway.

It is recommended that the above conditions are attached to any forthcoming planning permission.

It is considered that the proposal accords with NDTLP Policies ST10, DM05, DM06 and the relevant paragraphs of the NPPF.

6. Surface Water Drainage

Policy ST03 of the NDTLP seeks to minimise flood risk whilst Policy DM02 requires that development must not result in unacceptable impacts in relation to the pollution of surface or ground water.

The submitted drawings show that surface water would be drained to 450mm wide infiltration trenches located to either side of the proposed access road. In addition, a condition is recommended to ensure that surface water does not drain onto the public highway.

The submitted details are considered acceptable and the proposal is therefore in accordance with policies ST03 and DM02 of the NDTLP.

7. Other Matters

The objection received asserts that the occupier of the property known as 'Bay View' has not received notification of the application by post, which is not in accordance with planning regulations. However, notification of the application was delivered by hand by a member of Torridge District Council staff and a site notice has been displayed at the site. As such, the application has been publicised as required.

Members are advised that their consideration of the application must be restricted solely to the proposed construction access. Any effects relating to any future development of the Torridge Environment Centre cannot be considered, as this does not form part of the application under consideration. In addition, members are advised that any resolution to grant planning permission for the construction road does not prejudice the committee's position in respect of any future application relating to the Torridge Environment Centre. Any such application would need to be considered on its merits at that time.

8. Conclusion

The proposal is acceptable in principle, as discussed above. In addition, it accords with the relevant NDTLP policies, and any adverse impacts can be avoided through the use of suitably worded conditions.

One objection has been received, however for the reasons set out above it is considered that this should not preclude the granting of planning permission.

It is noted that Bideford Town Council supports the application.

Consequently, it is recommended that planning permission be granted subject to the following conditions.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

GRANT subject to the following conditions:

1. The development to which this permission relates must be begun no 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 time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

3. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the approved drawings where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.

Reason: To ensure the safety of all road users in the area.

4. The access hereby approved onto Gammaton Road shall be only used for construction activities associated with land immediately adjacent to the application site.

Reason: To prohibit use of the access by all traffic and as a general access to the site and beyond.

5. Once constructed the access shall be permanently closed with gates that only open inwards and shall not be used unless and until land adjacent to the application site gains relevant planning permission for uses that require construction access.

Reason: To allow the access to be built but not used.

6. The access shall be constructed such that no surface water drains on to the highway.

Reason: In the interest of highway safety and avoid damage to the highway.

7. Once the access hereby approved is no longer required, it shall be stopped up with a native hedgerow in the first planting season following the cessation of its use and retained as such thereafter.

Reason: In the interest of the character and appearance of the area.

8. Construction works (including deliveries of construction materials) shall not take place other than between 0700hrs and 1900hrs on Mondays to Fridays, Saturdays between 0800hrs and 1300hrs and at no time on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

9. The development hereby permitted shall be carried out in accordance with the recommendations set out at Section 6 of the Hedgerow Survey prepared by Orbis Ecology dated 8 September 2022.

Reason: To safeguard the biodiversity value of the site.

Plans Schedule

Reference	Received
200664 1020 P03	18.08.2022
200664 1350 P04	18.08.2022
200664 1351 P04	18.08.2022
200664 1450 P03	18.08.2022
200664-1350 P05	08.09.2022

Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted is considered to accord with the development plan. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.