



Town and Country Planning Act 1990

PUBLIC INQUIRY

Appeal by: Waddeton Park Ltd

Site at: Hartnoll Farm

Planning application 21/01576/MOUT

STATEMENT OF CASE ON BEHALF OF MID DEVON DISTRICT COUNCIL BY:
Mr James Clements, BSc (Hons), PG DIP, MRTPI
Principal Planning Officer

APPEAL TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT AGAINST NON-DETERMINATION FOR THE EXTENSION OF
THE EXISTING BUSINESS PARK FOR UP TO 3.9HA OF EMPLOYMENT LAND
AND UP TO 150 DWELLINGS WITH ASSOCIATED INFRASTRUCTRE AND
ACCESS WITH ALL OTHER MATTERS RESERVED.

1. INTRODUCTION

1.1. Policy S1 sets out sustainable development priorities for the District including the need. This Statement (of Case) has been prepared by **Mid-Devon District Council** ('The Local Planning Authority [LPA]) in relation to a Planning Appeal for Non-Determination – PINS Ref. APP/Y1138/W/22/3313401 - by Waddeton Park Ltd ('The Appellant') in respect of land at NGR 298976 112882 (Hartnoll Farm) Tiverton Devon ('The Appeal Site').

1.2. The Appeal followed the submission of Application for Full Planning Permission (LPA Ref. 21/01576/MOUT) for:

“Outline for the extension of existing business park for up to 3.9ha of employment land and up to 150 dwellings with associated infrastructure and access with all other matters reserved.”

1.3. The Application was validated by the LPA on 10.08.2021, after which the Authority commenced consultation with statutory consultees and key stakeholders, including the local community in accordance with its established procedures.

1.4. During the life of the Application, on the 15th October 2021, the LPA issued an EIA screening and scoping opinion (see appeal documents) requiring the submission of an Environmental Statement (ES) on the basis of cumulative impact with the adjacent Tiverton Eastern Urban Extension. The ES was received on 12th October 2022.

1.5. During the lifetime of the application, starting in February 2022, the LPA requested the submission of additional details so that a full assessment of the scheme could be made. This included: viability assessment including full costings of the proposed road and biogas infrastructure (to demonstrate why no affordable or custom build housing was being provided, provision of a Town Centre Impact Assessment (as the proposed development exceeded the 500sqm of retail, office and leisure as per DM15) and submission of biodiversity net gain (BNG) details to ensure compliance with LP Policy DM26. Other additional information requested in March 2023 related to whether there would be an increase in gas

production (and also feedstock) would be required to satisfy the heat demand from the existing and proposed employment uses.

- 1.6. None of the above information requested above, with the exception of the ES, was provided by the appellant during the lifetime of the application.
- 1.7. On the 15th November the LPA contacted the Appellant and confirmed that the application would be heard at the 18th January 2023 planning committee and requested an extension of time to the application. On the 14th December 2022 the Appellant confirmed that they would not agree to an extension of time. On the 19th December the LPA received an email from the Planning Inspectorate (PINS) confirming that an appeal for non-determination had been received. The Appellant requested that the appeal procedure be an Inquiry.
- 1.8. The Application attracted a moderate level of interest from the local community and from third parties such as the CPRE. These objections were subsequently given weight by the Planning Committee in considering and eventually determining the Application.
- 1.9. The Application was reported to the Council's Planning Committee on 18th January 2023. The Officer recommendation was to refuse planning permission. (See Appeal Documents). The Planning Committee agreed with the officer recommendation and voted unanimously to refuse the application.
- 1.10. The Decision Notice, dated 18th January 2023, comprised six Reasons for Refusal as follows:
 1. *By reason of the site's location, which is defined as countryside, on Grade 1 BMV agricultural land, beyond a settlement boundary identified within strategic policies S10-S13 of the adopted Local Plan, and because the Local Planning Authority can demonstrate an up-to-date housing 5 year land supply, the proposed development of 150 dwellings is contrary to Policies S1, S2, S3, S4 & S14 of the Mid Devon Local Plan 2013-2033 and guidance within the National Planning Policy Framework.*
 2. *By reason of the adverse harm to landscape character, as outlined in the submitted LVA, which concluded a moderate adverse impact, the proposed development would not*

preserve or enhance the character and appearance of this countryside location contrary to Policies S1, S9 & S14 of the Mid Devon Local Plan 2013-2033.

3. *By reason of insufficient information to demonstrate a biodiversity net gain, the development is contrary to Policy DM26 (a) of the Mid Devon Local Plan 2013-2033.*

4. *No S106 legal agreement to secure affordable housing and custom build units or education, transport infrastructure and waste contributions has been submitted with the application and no viability assessment has been provided to demonstrate that they cannot be provided. Therefore the development is contrary to Policies S1, S3, S9, TIV2, DM1, DM3 & DM4 of the Mid Devon Local Plan 2013-2033.*

5. *By reason of a lack of information with regard to the submission of a Town Centre / Retail Impact Assessment it is not possible to assess the impacts on Tiverton Town Centre contrary to Policy DM15 of the Mid Devon Local Plan 2013-2033.*

6. *By reason of insufficient archaeological investigations it is not known what harm may be caused by the development to archaeology, contrary to Policies S1, S9, DM1 & DM25 of the Mid Devon Local Plan 2013-2033 and guidance within the National Planning Policy Framework.*

1.11 The Appeal for Non-Determination (PINS Ref.: APP/Y1138/W/22/3293104) was dated 19th December 2022. The Start Letter was dated 23 May 2023.

2. **DESCRIPTION OF THE SITE**

2.1. The appeal site is located approximately 1.2km to the east of Tiverton and approximately 1.0 km to the west of Halberton. It comprises approximately 12.71ha of pastoral land that wraps around the existing Hartnoll Business Centre (HBC), and is bordered by Post Hill to the north and Manley Lane to the west.

3. **DESCRIPTION OF THE AREA**

- 3.1. The site consists of a number of irregular large pastoral fields with generally well defined hedgerow boundaries including occasional hedgerow trees. At the lowest point of the site, along the southern edge, is the Ailsa Brook, which forms a defensible boundary to the site before further open agricultural land to the south rising up to the Country Park of the Grand Western Canal (Also a Conservation Area). The site abuts the eastern boundary of the Tiverton Eastern Urban Extension (EUE) area.

4. PLANNING POLICY

- 4.1. The Local Planning Authority will outline all the relevant planning policy and central Government guidance relevant to this case.
- 4.2. For the purposes of s38(6) of the 2004 Act, the development plan is the Mid Devon Local Plan 2013– 2033. Other relevant development plan documents include the following:
- 4.3. The Devon Waste Plan 2011-2033 (Adopted December 2014);
Devon County Council Education Infrastructure Plan (Revised) 2016-2033;
Tiverton Neighbourhood Plan (made 14th December 2022).

5. THE LOCAL PLANNING AUTHORITY’S CASE

- 5.1. The LPA will argue that it maintains a robust current five year supply of deliverable housing land. The LPA will demonstrate that it currently has a housing land supply of 5.44 years.
- 5.2. Devon County Council will act as the LPA’s expert witness and argue that insufficient archaeological investigations have been carried out and this matter cannot be addressed by planning condition. The proposed development site lies in an area of archaeological potential with regard to known prehistoric and Romano-British activity in the surrounding landscape. The archaeological geophysical survey of the site has confirmed the presence of anomalies indicating the prehistoric or Romano-British field systems as well as a prehistoric funerary monument in the south-eastern part of the application area.
- 5.3. The recently submitted EIA includes the Heritage Environment Desk-Based Assessment prepared by Cotswold Archaeology (report ref: CA Report: CR0538_1, dated December 2020)

and the report from Substrata (report ref: 2011HAR-R-1 dated March 2020) setting out the results of the geophysical survey. However, it is not possible to determine the extent of survival and significance of any heritage assets with archaeological interest within the application area, or of the impact of development here upon them, remotely and without undertaking intrusive field evaluation. This is acknowledged within the text of para 4.14 of the desk-based assessment submitted in support of this planning application:

- “4.14 A staged approach to further archaeological survey is recommended. Firstly this would appropriately comprise a geophysical survey of the whole Site, which will provide further evidence for any further below-ground remains. If potentially significant remains are identified, then the use of other techniques (such as evaluation trial trenches) may be useful in gaining additional information. The results of such staged investigation may then provide proportionate information to inform determination of the application, and any further updates to design and proposed mitigation measures.”
- 5.4. While the geophysical survey has been undertaken, the results of a programme of intrusive field evaluation will allow an understanding of the significance of the heritage assets present and enable the efficacy of the survey itself to be tested. As it stands we do not know whether the geophysical survey has identified all or most of the burial archaeological features.
- 5.5. In the absence of the results of a programme of intrusive archaeological field evaluation the Historic Environment Team does not consider that the information submitted in support of this application contains sufficient information to enable an understanding of the significance of the heritage assets with archaeological interest within the application area or of the impact of the proposed development upon these heritage assets.
- 5.6. The requirement to support this planning application with sufficient heritage information is in accordance with guidance in paragraph 5.3 in the supporting text for Mid Devon Local Plan Policy DM25 (2020) and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

- 5.7. The additional information required to be provided by the applicant would be the results of a programme of intrusive archaeological field evaluation.
- 5.8. The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by the Planning Inspectorate.
- 5.9. The LPA will provide justification for the requirement for a Section 106 Agreement to be completed in respect of education & waste contributions.