

Reference No: 21/01576/MOUT  
Parish: Halberton 25

**TOWN AND COUNTRY PLANNING ACT 1990**

**REFUSAL OUTLINE PLANNING APPLICATION**

**Name and Address of Applicant:**

Waddeton Park Ltd  
C/o PCL Planning Ltd  
13A-15A Old Park Avenue  
Exeter  
EX1 3WD

**Name and Address of Agent:**

N. Stacey, PCL Planning Ltd  
13A-15A Old Park Avenue  
Exeter  
EX1 3WD

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Date Registered: 10th August 2021

**Proposal:** 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

**Location:** Land at NGR 298976 112882 (Hartnoll Farm) Tiverton Devon

**Site Vicinity Grid Ref:** 299032/112840

**MID DEVON DISTRICT COUNCIL HEREBY REFUSES OUTLINE PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT**

**Reasons for Refusal:**

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.

**Statement of Positive Working**

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal is not sustainable development for the reasons set out.

**DEVELOPMENT PLAN POLICIES:**

**Mid Devon Local Plan 2013 – 2033**

- S1 - Sustainable development priorities
- S2 - Amount and distribution of development
- S3 - Meeting housing needs
- S4 - Ensuring housing delivery
- S6 - Employment
- S8 - Infrastructure
- S9 - Environment
- S10 - Tiverton
- S14 - Countryside
- TIV1 - Eastern Urban Extension
- TIV2 - Eastern Urban Extension Transport Provision
- TIV3 - Eastern Urban Extension Environmental Protection and Green Infrastructure
- DM1 - High quality design
- DM2 - Renewable and low carbon energy
- DM3 - Transport and air quality
- DM4 - Pollution
- DM5 - Parking
- DM25 - Development affecting heritage assets
- DM26 - Green infrastructure in major development

**Relevant Plans**

The plans listed below are those which were considered in determining the application:

<b>Plan Type</b>	<b>Reference</b>	<b>Title/Version</b>	<b>Date Received</b>
Proposed	DE_425_SK11 Rev D	Framework Plan	05/08/2021
Site Location Plan	DE425-001		05/08/2021

**Signed:**



**Richard Marsh  
Director of Place**

**Date: 19th January 2023**

**Please refer to notes attached**

**NOTE – Failure to adhere to the details of the approved plans or to comply with the above conditions constitutes a contravention of the Town and Country Planning Act, 1990 in respect of which enforcement action may be taken.**

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against your local planning authority's decision on your application, then you must do so within:  
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If you want to appeal against the Local Planning Authority's decision then you must do so within 6 months of the date of this notice.
- If this is a decision for a minor commercial application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision for the display of an advertisement and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/appeal-planning-decision>
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

### **Purchase Notices**

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such

compensation is payable is set out in Section 114 of the Town and Country Planning Act 1990.