

APPEAL BY WADDETON PARK LTD

PINS REFERENCE: APP/Y1138/W/22/3313401 LAND AT

HARTNOLLS BUSINESS CENTRE

FURTHER ADDITIONAL STATEMENT OF COMMON
GROUND BETWEEN WADDETON PARK LTD AND MID
DEVON DISTRICT COUNCIL

OUTLINE PLANNING APPEAL FOR THE EXTENSION TO
THE EXISTING BUSINESS PARK FOR UP TO 3.9HA OF
EMPLOYMENT LAND AND UP TO 150 RESIDENTIAL
DWELLINGS WITH ASSOCIATED OPEN SPACE AND
INFRASTRUCTURE (WITH MEANS OF ACCESS TO BE
DETERMINED ONLY).

OCTOBER 2024



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1.0 **Introduction**

1.1 This Further Additional Statement of Common Ground ("FASOCG") is agreed between Waddeton Park Ltd ("the Appellant") and Mid Devon District Council ("the Council") in respect of the reconvened appeal (Ref: APP/Y11138/W/3313401). It is additional to, and does not supersede, the Statements of Common Ground agreed ahead of the original Inquiry, namely the Main Statement of Common Ground (July 2023); the Archaeology Supplemental Statement of Common Ground (August 2023) and the Additional Statement of Common Ground (August 2023).

1.2 The purpose of the FASOCG is to:

- (i) Record matters which were agreed between the parties as part of the 1st Inquiry, and which remain agreed (Section 2),
- (ii) Record matters agreed between the parties relating to matters subsequent to the 1st Inquiry (Section 3)

2 Matters Agreed During 1st Inquiry

2.0 The following matters were agreed between the parties either before or during the 1st Inquiry. Both parties closed the 1st Inquiry on the basis of this agreement. These matters continue to be agreed between the parties:

(i) The relevant provisions of the development plan (the Mid Devon Local Plan 2013-2033 [Adopted July 2020] – ‘the Local Plan’) which are

- S1 – Sustainable development Priorities
- S2 – Amount and Distribution of Development
- S3 – Meeting Housing Needs
- S4 – Ensuring Housing Delivery
- S14 - Countryside
- TIV1 - Eastern Urban Extension
- TIV2 – Eastern Urban Extension Transport Provision
- DM18 – Rural Employment Development
- S5 – Public open space
- S6 - Employment
- S8 - Infrastructure
- S9 - Environment
- S10 – Tiverton
- 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
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(ii) There is no dispute between the main parties that the extension to the

Business Park complies with relevant Local Plan policy, including policies S14 (“Countryside”) and DM18 (“Rural employment development”) and is acceptable in principle. The Council has no objection to the employment element of the appeal scheme.

- (iii) The Council acknowledges that the extension to the Business Park will help to meet the employment needs of Tiverton which has suffered a historic shortfall of employment provision.
- (iv) The application was supported by a Transport Assessment, the conclusions of which are agreed with the Highways Authority, in that there are no unacceptable impacts on highway safety, and the residual cumulative impacts on the road network are not severe.
- (v) the proposed development would not adversely harm the landscape character of the area. The Council agreed with the assessment in the LVA that the landscape effects would be neutral, and therefore not harmful.
- (vi) in respect of all relevant viewpoints, the visual effects of the proposed development would be “neutral”. Subject to appropriate design and mitigation (which the Council accept is capable of being secured at reserved matters stage) – the overall visual effect could be made to be “neutral”. Neutral effects are, by definition, not adverse.
- (vii) the co-existence of commercial and residential uses does not give rise to any residential amenity issues in principal and can be satisfactorily addressed through the Approval of Reserved Matters.
- (viii) the proposal is in a sustainable location in transport terms: including by reference to its accessibility to local facilities and the choice of sustainable transport modes that it offers.
- (ix) The development would not result in the loss of Grade 1 Best and Most Versatile (BMV) agricultural land (contrary to the allegation in the

reasons for refusal). The area of Grade 2 and 3a BMV lost is not significant and not objectionable.

- (x) The proposal is capable of achieving biodiversity net gain, subject to detail submitted at the ARM / discharge of planning conditions stage.
- (xi) There is no objection to the proposal in respect of heritage assets, including non-designated archaeological heritage assets within the appeal site.

2.1 Both parties closed the 1st Inquiry on the basis that the Council's case against the proposals had narrowed. In particular it was agreed, and continues to be agreed, that:

- (i) Of the 6 putative reasons for refusal originally relied upon, the Council now relies only on the first reason. Moreover, it is agreed that the reference in the first reason to the loss of Grade 1 BMV was erroneous;
- (ii) The appeal proposals would not give rise to any "site-specific" harm to acknowledged planning interests (such as landscape, visual, biodiversity, heritage, residential amenity, noise, highways etc);
- (iii) In light of the above, the Council's objection to the scheme relies on conflict with the relevant (strategic) provisions of the development plan.

2.2 The harm relied upon by the Council relates to the market residential element of the Appeal Scheme. However, as set out at 3.1 below, the Appeal Proposal is promoted as a single integrated mixed use development scheme and should be considered and determined on that basis. The component elements of the scheme cannot be disaggregated and considered in isolation, therefore. Notwithstanding 2.2 above, it is agreed that the employment and affordable housing elements are in themselves, in accordance development plan policy and would give rise to no conflict with the development plan.

2.2.1 On the Council's case the conflict with the development plan arises as a

result of the breach of:

- 2.2.2 Policy S1(a) (and parasitic on this, Policy S2) – one of the 13 sustainable development priorities. It is agreed that the proposal is consistent with the remaining 12 sustainable development priorities identified in Policy S1; and
 - 2.2.3 Policy S14 (by virtue of the market housing element).
 - 2.2.4 The Council agrees that Policies S3 & S4 would be complied with.
 - 2.2.5 The Council accept that:
 - 2.2.6 The appeal proposals do not conflict with the underlying objectives of Policy S1(a).
 - 2.2.7 the appeal proposals comply with, the express objectives of Policy S14 – to preserve the character and appearance of the countryside; enhance biodiversity; and promote the sustainable diversification of the rural economy although dispute that the appeal proposals comply with the overall objective of the policy of permitting only certain types of development in the countryside.
- 2.3 It was agreed (and continues to be agreed) that the appeal scheme would give rise to the following benefits:
- 2.3.1 Provision of housing, including affordable and custom build housing
 - 2.3.2 Employment provision
 - 2.3.3 Utilisation of renewable/low carbon energy sources (employment element only)
 - 2.3.4 The capacity to deliver biodiversity net gain

- 2.4 The parties agreed these matters are all benefits of the appeal scheme. They disputed, and continue to dispute, the weight to be given to these benefits.
- 2.5 The parties dispute whether the provision of a secondary access road to Area B of the Tiverton Eastern Urban Extension ("TEUE") is a benefit of the scheme to which weight should be attributed

3 Matters agreed in respect of issues arising since the 1st Inquiry Housing Land Supply

- 3.1 It is agreed that the Appeal Proposal is promoted as a single integrated mixed use development scheme and should be considered and determined on that basis.
- 3.2 Based on the Council and Appellant's evidence submitted to the first inquiry, and the Inspector's conclusions upon that evidence (which was not challenged) that the Council can demonstrate a 5-year housing supply of "just over five years" (1st DL, para 30) . It is agreed, as set out in the Council's Addendum Statement of Case (ASoC, paragraph 4.1) that the 5 year deliverable Housing Land Supply position stands at 5.22 years.

Employment Land Supply

- 3.3 It is agreed that the Employment Land Supply position has not materially changed since the closure of the previous inquiry.

Renewable Energy Linkage

- 3.4 The parties previously agreed that the renewable energy linkage formed an agreed benefit on the basis of the findings of the energy feasibility study (CD45) and on the understanding that the existing system was being utilised (See CD6 – Statement of Common Ground). The Council has concerns that the AD plant is operating in excess of its consented electrical output limit (500kW) although the appellant has confirmed that the appeal proposals do not seek to rely upon any additional output that may, or may not, be occurring in breach of planning permission. The appellant is in the process of preparing an updated report to demonstrate that the appeal scheme only seeks to utilise output that stems from the consented limit (which relates only to electrical output). Subject to the Council reviewing the findings of this report, and being content that this is the case, then the Council can continue to agree to this benefit. The parties continue to dispute the weight to be afforded to this benefit.

Access Road to Area B

3.5 It is agreed that;

3.5.1 securing a secondary access to Area B of the TEUE has been a long-held objective of the Council. The benefit of a secondary access include: (a) that it would accelerate delivery of Area B, which then wouldn't be contingent on access being provided from Area A for development to begin; and (b), it would enable the bus services serving the TEUE to run as a through route, rather than on a less effective internal loop

3.5.2 the access road provided to Area B on the appeal scheme is safe and suitable, including for the volume of traffic that would be generated by the TEUE.

3.5.3 The following condition would satisfactorily control both the approval of technical details of the access and its delivery prior to occupation of any dwellings:

"Details of layout submitted pursuant to condition 1 of this permission shall include details of the proposed road connection between the approved point of access shown on drawing (ref 48582/5501/sk02 H) and Manley Lane (in broad accordance the alignment shown on drawing no (ref DE425, Rev D). No dwellings shall be occupied until the road connection to Manley Lane is completed in accordance with those approved details."

3.6 The Council affords the access road on the appeal site no weight as a benefit on the basis that it considers that alternative secondary access options can be delivered within the Local Plan Period and within the terms of the Plan's provisions and of the emerging TEUE Masterplan (SPD) and, there is, therefore, no pressing need for the Appellant's proposal. On the face of it, and subject to the full development management process, **one** option appears to be that promoted by Westcountry Land (Tiverton) Limited (a Rule 6 Party). The Council does not allege that the access road on the appeal site gives rise to any harm.

In relation to historic and landscape matters it is agreed that the inclusion in the Council's Addendum SoC was just for completeness and that the Council do not allege that the emergence of this document as a consultation draft (that has been objected to by the appellant) does not result in any allegation of historic or landscape harm

4 MATTERS NOT AGREED

4.1 The Application and interpretation of the relevant provisions of the development plan (the Local Plan). In particular:

- (a) The interpretation of Policy S1, Clause (a);
- (b) The meaning and interpretation of "at (Tiverton)";
- (c) The scope and interpretation of Policy S14;

4.2 Whether there is a conflict with the development plan (read as whole) or not?

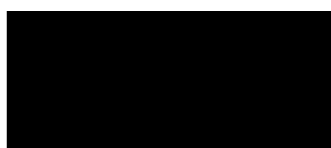
4.3 If there is a conflict with the development plan (read as a whole) whether this conflict represents a compelling and overriding reason for withholding planning permission in this case

4.4 The identification and weight to be accorded to the other material considerations. In particular:

- (a) Whether the Appellant's proposed access to Area B of the TEUE is a benefit to which weight should be accorded;
- (b) The alternative energy linkage;
- (c) The weight to be accorded to the other material considerations as benefits in the planning balance
- (d) The extent to which there is harm arising from the Council's alleged conflict with the provisions of the development plan.
- (e) Delivery of housing during the residual plan period (beyond the five year housing land supply period)

Name John Hammond

Signed



Date 15/10/2024

On behalf of Mid Devon District Council

Name David Seaton

Signed



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Date15th October 2024.....

On behalf of Waddeton Park Ltd