

PLANNING APPLICATION REPORT

Case Officer: Anna Henderson-Smith

Parish: Drewsteignton **Ward:** Drewsteignton

Application No: 2701/18/FUL

Agent/Applicant:

Mr Michael Gordon
Rural Solutions Ltd
Canalside House
Brewery Lane
Skipton
BD23 1DR

Applicant:

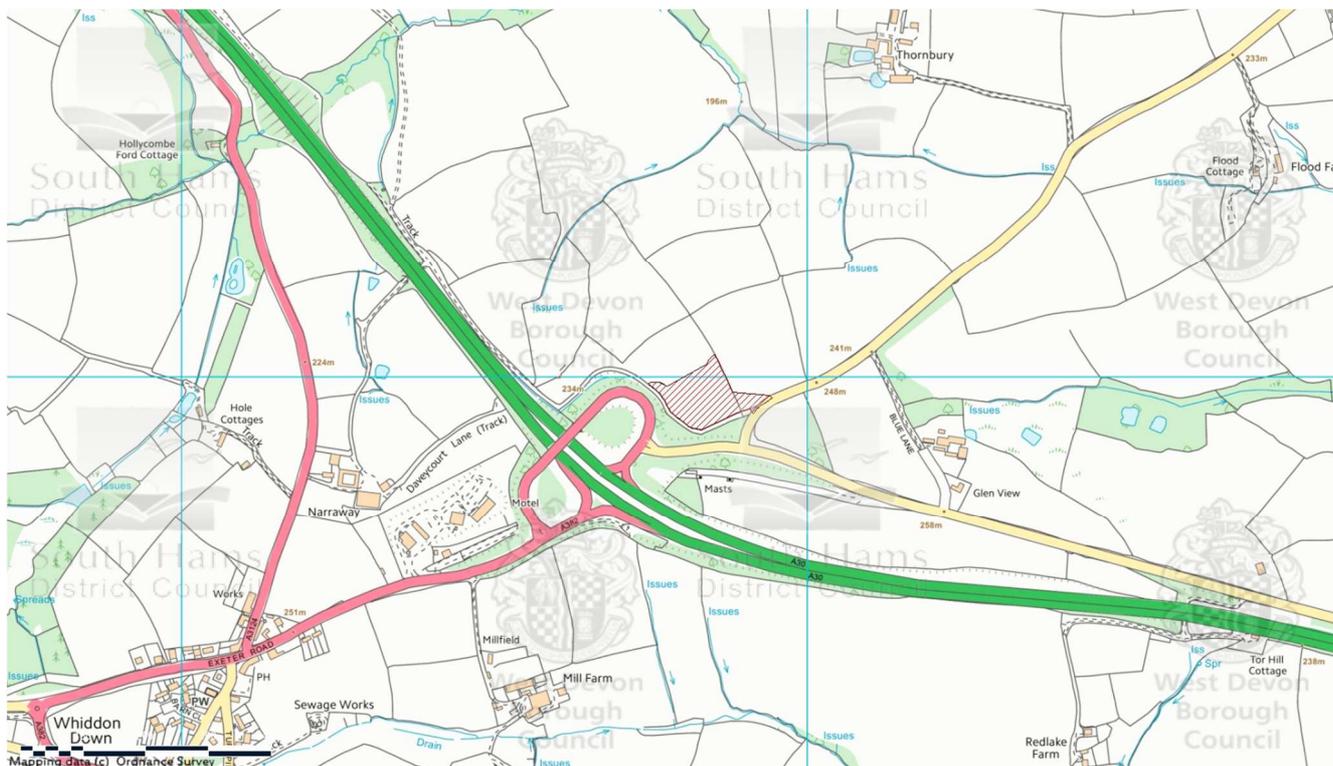
JW Mann Ltd
C/O Agent

Site Address: Land North Of A30 Junction, Whiddon Down, Drewsteignton, Devon

Development: Development of new shop and ancillary cafe with supporting secondary areas consisting of storage, WCs, offices and kitchen space (resubmission of 1255/18/FUL)

Reason taken to Development Management Committee: This application was called in by Cllr Sanders for the following reasons:

- Development of a retail unit in open countryside with no relationship to any other buildings or enterprises.
- Impact on the rural nature of the site.
- Highly visible from many locations both near and distant.
- Other more suitable sites in the general area.
- No reason given to support an argument that the building and car parking must be developed in this area.
- The works required to locate the facility will adversely impact the general topography of the area.



Recommendation: Approval

Pre-commencement conditions agreed by agent.

Conditions:

- 1) Time limit
- 2) Adherence to plans
- 3) Materials
- 4) Hours of operation and restrictions
- 5) Origin of goods
- 6) Sales/goods restrictions
- 7) Use restrictions and PD removal
- 8) A1 retail area restriction
- 9) Drainage design
- 10) Foul drainage
- 11) Landscaping
- 12) Traffic signage
- 13) Hedgerows
- 14) Ecological mitigation and enhancement
- 15) EPS license
- 16) Tree protection
- 17) Unexpected contamination
- 18) PD removal for extensions and alterations
- 19) Lighting installation
- 20) Erection or brise soleil
- 21) Electric vehicle charging points

Key issues for consideration:

The main issues are the principle of the development particularly in this location, access, parking and highways safety, landscape impact and economic, ecology, drainage, neighbour amenity and any impact upon village vitality

Site Description:

The application site is a parcel of agricultural land located immediately to the north of the A30 junction at Whiddon Down. Officers understand that the land was used as a temporary storage area when the junction was constructed, and it's most recent use has been as agricultural ground for the storage of bales.

The land slopes gently down from south to north. Directly to the south is the access track and dense woodland, with the field boundary to the east and north. The land drops down sharply to the west to the adjacent slip road, with the land retained. The site is served by a single track lane which has a junction with the road to Hittisleigh, which itself joins the A30 slip road close by.

The site is within open countryside but is otherwise free of specific spatial planning constraints. The Dartmoor National Park is approximately 250m to the south. The nearest listed buildings are a set of gate posts and Hole Cottages beyond Whiddon Down to the west. There is no inter-visibility between the site and these buildings. The grade II Thornbury Farmhouse is 650m to the north, but the site does not influence its setting.

The Proposal:

Planning permission is sought for the development of a new 'farm shop' and an ancillary cafe with supporting secondary areas consisting of storage, WCs, offices and kitchen space. This scheme is a resubmission of planning application reference 1255/18/FUL which was withdrawn by the applicant in order to conduct further consultation with the local community.

The scheme is formed of two main building elements adjoined and at 90 degrees to one another. The main element is a single A frame building which houses the public shop and café area and associated rooms. The secondary element is also a simple A framed building which extends towards the south and houses the store facilities and the toilets.

The proposed car parking area is to the south of the proposed buildings. The existing field access is extended and widened into a short drive which forms a curved access from one field to the other, screened by new planting. The application is accompanied by a comprehensive landscaping strategy. The proposal indicates surface water to be discharged via soakaway.

Consultations:

- Ward Member Cllr Paul Ridgers –

My reasons for objection are:

The farm shop has no direct link to a farm in the Parish or neighbouring Parishes

The development is in Open Countryside and now from the description it is a retail premises, which falls outside of current/adopted planning policy guidelines

The application is outside the Whiddon Down village development area.

Potential dispersal of village activity to the other side of the main A30, the building size and placement WILL impact on the surrounding area.

Concerns over pedestrian safety accessing the building

Traffic concerns on the A30 exit from the exit slip road

There is already a Shop/café performing the same functions within Whiddon Down

The inability of the junction and road to Hittesleigh to cope with the additional 280 vehicles a day

- County Highways Authority

No objection subject to conditions -

'The application is supported by a Transport Statement prepared by transport consultants, Calibro. Although the scoping of the statement was not previously agreed with the highway authority, the content and conclusions are broadly acceptable to the highway authority.'

From the highway authority's point of view, therefore, there are no objections in principle to the proposed development, and the access junction to serve the site has been designed such that it complies with contemporary design guidance for geometry and visibility

The signage schedule and plans in the Transport Statement show five proposed signs; two are on land that is part of the trunk road network under the control of Highways England and the remaining three are on land which does not appear to form part of the publicly maintained highway and is of unknown ownership. The applicant is advised that the highway authorities have strict criteria about the signing of commercial enterprises and these signs may conceivably be in breach of those constraints so may not be acceptable. An informative note to cover this aspect is included below.

It is also recommended that Highways England is also consulted with respect to the effect that the proposed development will have on the trunk road network, and the advertisement signs proposed on land for which they are responsible.'

- Highways England

No objection subject to condition –

'The application is for a farm shop and café with associated storage and ancillary facilities. The total floorspace proposed is 705sqm, consisting of AI (271sqm), A3 (162sqm) and BB (265sqm) uses. This represents a slight reduction in the quantum of development from the previously submitted and now withdrawn application reference 1255/18/FUL, with the removal of the children's play element from the proposals.

Whilst access to the development is via an unnamed local road, the site is located a short distance to the north of the A30 Whiddon Down junction with the A382. The proposals are supported by a Transport Statement (TS) prepared by Calibro. We have considered the methodology used for the predicted trip generation and the adequacy of the proposed parking provision, and consider both to be acceptable.

We are therefore satisfied that the SRN can accommodate the level of trips associated with the proposed development and we have no objection in principle to the proposals.

However, due to the close proximity of the A30 eastbound off and onslip, it will be important to ensure that clear signage is provided from the local road network, to ensure that vehicles do not overshoot the local road junction. The TS includes an indicative proposal, but a detailed scheme will need to be agreed with the highways authorities and implemented prior to any development being brought into use. The applicant will need to be aware that signing will not be permitted within the trunk road boundary.'

- Landscape/Trees

No objection subject to condition, full discussion below

- Biodiversity Specialist– On the basis that officers consider the scheme to pass the first two derogation tests Biodiversity Specialist raises no objections subject to conditions

'The application is supported by an Ecological Appraisal (Blackdown Environmental, Nov 2018) which includes results of desk study, site visit, detailed reptile surveys and ongoing dormouse surveys.

The site is described as comprising two fields, that to the west 'used for the storage of silage bales and comprises a mosaic of bare ground, vegetated spoil heaps and species poor semi-improved grassland with rushes and the field to the east is used for sheep grazing and is dominated by improved grassland.' These are bounded in part by species-rich hedgerows.

The report summarises the proposal 'to develop the western field into a farm shop with associated parking, offices and a dog walking area. It is proposed to use the eastern field to obtain access from the main road into the site. The site plan as proposed includes the removal of approximately 17m of species-rich hedge bank from the eastern and southern field boundaries to enable access.'

New habitat proposals include approximately 38m of species-rich hedgerow, 2,100m² of tree planting and 750m² woodland edge planting.

With respect to protected species:

- *No evidence of badger was recorded (although it is likely badgers may or could use the site on occasion). Precautions during construction have been recommended.*

- *There is value for foraging and commuting bats in the hedgerows – these will be retained (except for a 17m gap), and the value of the site for bats will be significantly enhanced through new hedgerow, tree and woodland edge planting.*
- *No reptiles were recorded on site during detailed survey.*
- *It is likely that bird species would use the hedgerows for nesting. Precautions before and during construction have been recommended.*
- *A full dormouse nest tube survey was undertaken in 2018 and dormice were recorded nesting. They are expected to be using hedgebanks throughout the site. have been assumed presence based on local records and suitable habitat on site. Surveys are ongoing, however for the purposes of the PEA, planning application, and habitat creation they have been assumed present, and implications considered (with recommendations for mitigation and compensation).*

Based on an assumption of presence of dormice, the proposed removal of 17m of hedgerow has potential to harm dormice and destroy their nesting sites – these are Habitats Regulations offences. Where a Habitats Regulations offence may be triggered, the LPA must consider whether the proposal meets the 3 derogation tests, and accordingly whether Natural England are likely to grant a EPSL which would permit the proposal to lawfully proceed. The first 2 tests are outlined below, but are essentially planning tests (and are for you to conclude as case officer). The 3rd test I have concluded below:

Imperative Reason Overriding Public Interest – Establish the public interest (social, economic) which has some imperative nature (i.e. required soon) which overrides the maintenance of the fields as they are at present.

No Satisfactory Alternative – Consider and discount alternatives – e.g. design/layout that would not require loss of any hedgerow – why this is unfeasible.

Maintenance of Favourable Conservation Status – the ecologist has outlined mitigation (either the standard 1 or 2 stage vegetation removal methods used where dormice are present, and ecologist supervision) and compensatory provisions (hedgerow translocation, dormouse boxes, and new habitat creation comprising approximately 38m of species-rich hedgerow, 2,100m² of tree planting and 750m² woodland edge planting).

These measures would maintain the favourable conservation status of the dormice (the habitat creation measures in fact would be expected to significantly enhance available habitat) and accordingly this test is considered met.

If you consider that the 3 tests are met, then it would be reasonable to consider that Natural England would grant a EPS Licence, in which case please apply the condition below.

- *No works to remove the hedgerows shall commence until the LPA has been provided with a copy of the licence for Dormice issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the works to go ahead.*

Appendix 6 (Conservation Action Statement) of the Ecological Appraisal contains necessary avoidance and mitigation measures – including of note, the requirement for a pre-commencement updated badger survey. Accordingly, if minded to approve please also apply the following condition:

Avoidance, mitigation and enhancement measures detailed in Appendix 6 of the Ecological Appraisal (Blackdown Environmental, Nov 2018) shall be strictly adhered to and implemented in full.”

- WDBC Drainage

No objection - subject to surface water and foul drainage conditions

- South West Water

No objection

- Environmental Health

No objection - subject to standard unexpected contamination and detail of provision for electric vehicle charging points conditions

- Dartmoor National Park

No objection subject to landscape condition

- Drewsteignton Parish Council

Objection – ‘*Highways – dangerous country road junctions, increase in traffic, congestion will increase. Currently poor direction signage. The Highways analysis does not reflect accurately what is happening on the roads now regarding accidents and near misses.*

- *No safe pedestrian or cycle access to the site.*

• *Contrary to National Planning Policy as it will disperse the village to the other side of the main road, the building will impact on the surrounding area as it is on one of the highest points in the parish visible from Dartmoor in the west and Exmoor in the north. It will have significant impact on the access, highways safety and those residents living at Hittesleigh and beyond.’*

- Hittesleigh Parish Council

Object - stating the following;

“As per your planning office, we understand you are accepting responses to 8th October. Hittesleigh Parish Council has reviewed the application and wish to object.

It is a greenfield site for agricultural use. Local knowledge indicates that Highways England used this site for storing equipment and vehicles when building the flyover on the condition that the land was returned to agricultural use.

The adverse visual impact of development in the open countryside is also a concern. There is already development on the opposite side of the highway at Whiddon Services. It would make more sense to expand the development there.

We note the comments made by Highways England and understand that a local highways officer familiar with the area has been consulted. However, we would reiterate our comments on the withdrawn application particularly in regard to the exit from A30 towards Exeter as this does not appear to be taken into account. Namely:

There is very limited space for cars to stop without blocking the access road when exiting the A30T onto the slip road and then turning right onto the old A30. The number of vehicles accessing the Whiddon Down Services can cause congestion when exiting the services. Cars towing caravans are frequent travellers adding to the congestion. The access from the A30T eastbound towards the development is an area of concern. The whole road network around the A30T at Whiddon Down Junction can be confusing to visiting drivers. We are well aware of drivers overshooting turnings and reversing to locate the desired direction.

In addition, those using the proposed development may need to cross back to the Whiddon Services for fuel adding to the complexity of traffic crossing and using the flyover and slip roads.

We are not confident that signage limited solely to the local road network will mitigate the potential risks posed by the cross flow of traffic to/from the A30, the old A30 and the unnamed road leading to the proposed development.”

- Cheriton Bishop Parish Council

Object – stating the following;

“Traffic Generation and highways issues: The Council consider that the development of the site will create considerable issues including car parking.

Design: The Council consider that this is not a Farm Shop as it is not linked in any way to a farm it is a retail unit for which no need has been demonstrated. it is a development on land that was designated agricultural land and should have been returned to that.

The Council was very concerned that they had not been consulted about this or the previous application that had been made as a neighbouring parish.

The Council are aware of the objections raised at the Drewsteignton” Parish Council meeting and are in agreement with these objections.”

Representations:

At the Time of writing 77 persons have made representations of which 60 have raised objections and 17 have stated supported. Amongst these are representations from the Devon Campaign to Protect Rural England (CPRE), ‘Taste of the West Ltd’ and the South West Tourism.

Concerns raised within the submitted objections are summarised as follows:

- The scheme is not truly a farm shop
- Will have a harmful landscape impact
- The proposed landscaping scheme should be improved
- Will harm amenity through noise, smells, air pollution and light
- The surrounding roads are not of sufficient standard to safely accommodate the development
- The development will lead to an unsafe surrounding highways environment
- Parking provision is inadequate
- Lack of pedestrian access provision
- There is no need for the development as alternative provision exists
- No credible business case
- Amount of expected passing trade has been over exaggerated
- May impact trade of other businesses
- Will cause off site drainage issues
- Could challenge the vitality of the pub as a community asset
- Doesn't accord with the emerging Joint Local Plan
- Foul water disposal is not addressed in the submission
- Will harm ecology
- The ecology reports are incomplete
- No mention of land in control (under option) of the applicant
- Officer report contains misleading statements on a number of matters
- Conflicts with Core Strategy
- Does not meet the policy requirements for a farm shop
- Suggested benefits of scheme are already adequately supplied by existing outlets

- Applicant has not shown this location is best option for this development, there are better alternative sites
- Should be considered as a retail outlet and be subject of retail impact assessment
- Allowing this development will lead to further pressure for expansion
- Does not comply with JLP policy DEV15
- Site is not physically well-related to an existing settlement
- Assessment of the agricultural land classification has not been undertaken
- Is a Habitat Regulations Assessment (HRA) required in relation to impacts upon the Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)?
- Has an EIA screening opinion been provided by the LPA
- No design rationale provided
- Effective consultation has not been demonstrated
- The scheme is not compliant with the National Planning Policy Framework

Comments made in support of the application are summarised as follows:

- An important outlet for smaller independent producers and retailers as an alternative to supplying the supermarkets
- Opportunity for regional suppliers
- Growing market for provenance-based food and drink
- Consumers actively seek out local produce where they can, this outlet would contribute greatly to choice and experience – 2 key determinants in food shopping
- Adds additional choice for locals
- Provides an opportunity for this kind of outlet where there currently is none between Exeter and Lifton
- Will aid the regeneration of Whiddon Down
- Provides a Farm Shop facility for users of the A30
- Will promote/showcase local produce, as evidenced by the list of interested sellers
- Will provide job opportunities, including for young people in the area
- The site is an accessible location for a Farm Shop
- There is an absence of comparative facilities so close to the A30
- Will provide A30 users with information on local area encouraging re-visits or new destinations for future holidays
- A beacon business for the Southwest
- Increase interest in the National Park and surrounding area
- Encourage local businesses to diversify and adapt to support demand/supply chain
- Increase visitation to other local attractions

Relevant Planning History

Pre-app advice - positive

1255/18/FUL - Development of new farm shop, with ancillary cafe, supporting secondary areas and a dedicated children's soft play area (class uses A1/A3/D2) - Withdrawn

Analysis

Principle of Development/Sustainability and policy context

Farm shop and retail policies

Since the writing of the previous draft report (appended in full herewith for ease of reference), the joint local plan (JLP) has been out for consultation on the main modifications, this happened on 22nd October 2018-3rd December 2018. At this point some policies within the JLP can now be given significant weight depending upon whether any modifications are proposed, what these are and whether there are any

unresolved objections to the policy following the examination in public (EiP). Policy DEV15 is the single most relevant policy to this development proposal insofar as it identifies what the Local Planning Authority (LPA) consider to constitute a 'farm shop' and where and when this will be considered appropriate and acceptable. DEV 15 is not considered to have any outstanding unresolved objections and although some minor modifications are proposed to the wording from that tabled at the EiP, these are expansive explanatory additions rather than altering the meaning of the policy in any way. In addition no modifications whatsoever are proposed to policy point 5 on Farm Shops. As such it is considered that DEV 15 can now be afforded significant weight and the relevant extracts read as follows:

The creation of new or extensions to existing, garden centres or farm shops, in the open countryside and unrelated to a settlement will only be permitted if the proposed development is ancillary to, and on the site of, an existing horticultural business or existing farming operation, and provided that 75% of the goods sold will be produced within the immediate and adjoining parishes.

Although restrictions on sales and their provenance have been agreed by the applicant, these are not as restrictive to West Devon and the surrounding parishes as the above policy requires. Similarly the proposed development is not ancillary to nor on the site of an existing farming operation.

DEV15 also goes on to say that development proposals should:

iv) avoid incongruous or isolated new buildings. If there are unused existing buildings within the site applicants are required to demonstrate why these cannot be used for the uses proposed before new buildings will be considered.

The previous case officer report provides commentary with reference to the interpretation of Local Plan Policy ED20, which is the main policy of that plan that advises on new farm shop enterprises.

Part of that interpretation of Policy ED20 covers the issue of the sourcing of produce from a "collective of farms" for sale within a single shop unit.

On this matter there is a divergence of officer view. Officers acknowledge that farm shops, subject to suitable planning permission, can sell produce from elsewhere. However the conclusion that this can relate to a facility that is not itself located on or affiliated with an existing farm enterprise is not supported by the policy preamble.

The preamble is clear that;

"A farmer **can sell his own produce from an existing building on his farm** without the need to seek planning permission as the use is ancillary to the use of the farm, **however, if he wishes to bring in produce from elsewhere to supplement his own farm produce** he will require planning permission. Difficulties can arise where it is proposed to sell a product range beyond that grown on the farm, in these situations farm shops can have an impact on the existing shops and services in rural areas..." (emphasis added)

As Members will note the preamble refers very clearly to the starting point of a farm shop selling on a farm's own produce from an existing building as being considered ancillary to the farm use and not requiring consent.

Equally the preamble is clear that planning permission is required to bring in produce from elsewhere to supplement his own farm produce. Whilst not explicit, the preamble infers that such activity is taking place on the farm and that the external produce is brought to that farm.

In addition the preamble then continues as follows;

*"It can also have an impact in terms of traffic generation, highways, access and parking arrangements. **In individual cases where the development of an unrestricted retail use on a***

farm would be likely to result in an adverse effect on a nearby shop, the Borough Council may wish to use planning conditions to limit the broad types of produce sold in the farm shop so as to enable permission to be given." (emphasis added), again the preamble is referring very clearly to the farm shop use being on a farm.

In light of the above thread that runs throughout the preamble, it is officer view that Policy ED20 does not provide support for a retail unit that specialises in selling farm produce where it is not related to an existing farm enterprise and this current proposal would thus not be considered as a 'Farm Shop' by officers for the purposes of planning policy. Similarly officers consider that the 'man on the street' would expect a 'Farm Shop' to have at least its beginnings as a shop sited on an active farm holding predominantly selling produce grown/reared on site.

Thus in this instance the proposal does not, in officer view, equate to a 'farm shop' in terms of the policy and instead should be regarded as a retail unit. Whilst the retail unit may seek to limit itself to the sale of local produce from farms in the surrounding area it is not of itself a 'farm shop'. An analogous concept would be to consider that many retailers sell produce from the locality such as supermarkets selling locally produced food and drink or a retailer seeking to source locally made crafts and clothing. In each instance they still fall under an A1 use in the same way as any other retailer that sources products from local, national or international suppliers.

In light of the above, the Local Planning Authority (LPA) is obliged to deal with the proposed development as a retail development and apply the relevant planning guidance and Development Plan policies in its assessment of the proposal.

Retail development assessment

The National Planning Policy Framework (NPPF) provides the overarching guidance in the general assessment of retail proposals. Within the NPPF under section seven it notes the following;

"Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;" (paragraph 85, NPPF)

The NPPF defines town centre uses as follows;

"Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)." (Glossary, NPPF)

Members will note that retail development is the first of these uses to be defined.

Paragraph 86 of NPPF then requires the LPA to;

"apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in

town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

However the NPPF also goes on to state in paragraph 88 that ‘*This sequential Approach should not be applied to applications for small scale rural offices or other small scale rural development.*’

The most relevant current Development Plan policy that specifically deals with retail development is Core Strategy Policy SP12, which states that;

“Retail development will be encouraged where it reinforces the role of the town centre and enhances the attractiveness, viability and safety of the town. Proposals for out-of-centre retailing will only be supported where the sequential approach justifies the proposal and there is no unacceptable impact on the town centre.”

WDBC also has an adopted SPD, ‘Assessing the Impact of New Retail Development in West Devon Supplementary Planning Document’ from April 2013. Within this, paragraph 3.11 states:

3.11 Given these circumstances and based on the evidence from the Town Centre Retail Study 2012 which notes the special characteristics of both Okehampton and Tavistock, it is considered that the impact on the existing town centres will become evident at a lower threshold and it is therefore appropriate to set a blanket threshold of 250m² net for any new retail proposals in edge of centre, out of centre and out of town locations for new build development, change of use or extensions to existing units.’

In terms of emerging policy officers would note that Policy DEV16 of the Joint Local Plan is currently a draft policy as with Policy DEV15 it is not considered to have any outstanding unresolved objections and although some minor modifications are proposed to the wording from that tabled at the EiP, these do not alter the meaning of the policy in any way.

The relevant sections of DEV16 as proposed under the main modifications consultation reads as follows;

“Providing retail and town centre uses in appropriate locations

In determining development proposals which include retail and other town centre uses, including new floorspace, changes of use of existing floorspace, variations in planning conditions and obligations, and also extensions of existing units, the LPAs will consider the following matters:

1. Proposals will be assessed in relation to their support for the spatial strategy of the local plan and the sequential hierarchy of centres. Proposals within identified centres should be of a scale appropriate to the role of the centre.

*2. Proposals for main town centre uses in edge of centre **locations**, and out of centre locations **and the Derriford Commercial Centre** should be supported by a sequential test that demonstrates flexibility in its assessment and that there are no other sequentially preferable suitable and available sites within or on the edge of an appropriate centre within the hierarchy of centres. This sequential approach is not applicable to applications for small scale rural offices or other small scale rural development. **[MM44]***

*3. Proposals for retail, leisure and office development in edge of centre **locations** and out of centre locations **and the Derriford Commercial Centre** must be accompanied by an impact assessment where the floorspace exceeds the thresholds set out below. Any proposal which would have a significant adverse impact on the investment in and/or the vitality and viability of an existing centre or prejudice the deliverability or investment in a proposed centre will not be permitted. **[MM44]***

i. Retail development creating new or additional floorspace greater than 500 square metres (gross) in the Plymouth Policy Area.

ii. Retail development creating new or additional floorspace greater than 250 square metres (gross) in the Thriving Towns and Villages Policy Area.

iii. Leisure and office development creating new or additional floor space greater than 2,500 sq.m.(gross).”

Overall upon distilling the retail guidance of the NPPF, the current and emerging policies and SPD the two main issues relevant to the assessment of the principle of this application, are;

1. The potential need for a Retail Impact Assessment (RIA) and
2. The potential need for a sequential test.

Sequential test:

The agent has maintained that the proposal is ‘small scale rural development’ as referred to in NPPF para 88 set out above. Their rationale for this is based on several aspects, not least that the Council’s Retail Impact Threshold, as discussed below, is 250sqm of retail area. They further define their interpretation of the NPPF’s ‘small scale’ by the incorporation of other legislation such as the Sunday Trading Hours Act for which the threshold is 280sqm of net space before a ‘small scale retail development’ becomes large scale. They have identified that this Act is used elsewhere in practical planning to define small scale retail such as the CIL Charging schedules of North Somerset, Bournemouth and Cornwall who all use the Sunday Trading definition to define small scale retail parameters. This 280sqm Sunday Trading threshold is also stated as a point of change in the preamble to policy R5 of the WDLP.

There is no formal definition of small scale retail either within our own SPD or planning policies, or within the NPPF. As such in this instance the RIA threshold combined with the fairly widely accepted application of the Sunday Trading Act threshold would suggest that in this instance and location the quantity of retail space applied for is considered by officers to be small scale and as such does not require a formal sequential test of alternative sites.

The Application was accompanied by a Planning Statement which included a summary of alternative sites and the reason why these were considered less suitable and or sustainable than that proposed. Officers consider that the location proposed is relatively centrally located in terms of the potential suppliers of goods cited within the supporting documentation, however it is also a located in a situation which is central to the wider area and exploits the excellent accessibility, transport network and passing trade. Whilst this proposal is to provide a retail outlet for local/regional farm goods, when combined with the café, facilities and A30 location it also has the potential to be a ‘destination’ in itself and *en route to Cornwall or East Devon*. The most pertinent sections relating to such economic attractions are paras 80 and 83 of the NPPF.

Paragraph 80 states that *‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.’*

With regard to the rural economy, paragraph 83 states that: *‘Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses;*

and paragraph 84 states that *'Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.'*

Although the NPPF and existing and emerging policies recognise the need for caution with out of town retail, they and the NPPF also clearly accept that there may be situations where it is reasonable or necessary. The JLP policy predates the latest iteration of the National Planning Policy Framework but it seeks to support the local economy, which is entirely consistent with the economic aims of the Framework a core principle of which is *'to help build a strong, responsive and competitive economy'* (paragraph 8).

Overall then it is officer opinion that in terms of a sequential test, in this instance and taken in context, this proposal does not meet the thresholds that would require one to be undertaken as it is small scale rural development. Additionally the location is considered to be accessible and adequately justified given the pool of potential suppliers cited and the potential for the development to become a distinctive destination in itself.

Were any future proposals for expansion ever proposed then the resultant retail area would obviously be larger and not necessarily appropriate although this would of course be for consideration at the time.

RIA and village vitality:

It has been confirmed by the agent that the net retail floor area of the proposal is 228sqm and the externally measured gross is 247sqm (in accordance with the NPPG guidance on gross floor area calculation). This has been indicated on plan by the agents and a rationale of what functional space has been included and excluded provided. Officers are in agreement with this approach and as such the proposal is below the thresholds for providing a formal RIA within the existing SPD (250m² net) and the new JLP policy DEV16 (250m² gross). This approach has been challenged by objectors to the proposal, however officers consider that it has been undertaken correctly and that, combined with the conditions which are proposed to limit flexibility between area use and limit sales area, that this approach is correct.

This does not of course mean that consideration of the expected impact of the proposal upon the surrounding retail offers and village/towns is not necessary however. The proposal will offer an alternative retail and café option to those already present in the area, such as the Whiddon Down services store, Hog and Hedge, The Post Inn and nearby farm shops for example. The consideration with new out of town centre retail development is to ensure that it will not have a detrimental impact upon the vitality and viability of the Town/village centres whilst at the same time ensuring that the planning system does not unduly interfere with the free market economy.

Whiddon Down is the nearest settlement, which is close by, being immediately to the south. It does benefit from the convenience store associated with the garage, but this facility is not intended to be replicated by this café/shop application and a condition is recommended to ensure that the proposed development does not provide convenience items such as newspapers or medicines.

The village is also served by the pub, the Post Inn, which officers regard to be an important community asset, offering an enclosed, accessible, safe and warm space for the community to socialise and take meals. As such, officers are recommending a condition which ensures that the café facility associated with the shop remains ancillary to the retail, and for the café to maintain only normal daytime opening hours, to avoid drawing away from the social function that the pub, as a community asset, will provide

in the evenings. As an exception to this, the café opening hours will be extended into the evening for a three month period in the summer, but will only provide hot drinks and snacks, and not plated meals.

Utilising these conditions, officers conclude that the proposed development will not prejudice village vitality; the conditions will ensure that the development does not directly challenge the vitality of the pub in Whiddon Down as a community asset nor challenge community shops within Whiddon Down and lying further afield, such as the shop at Spreyton.

Design

The scheme provides a pseudo agricultural design, with the buildings having a simple appearance and seeking to replicate the utilitarian vernacular of agricultural structures seen throughout West Devon. The building is large however with a height in excess of that required to house the uses proposed and the development in terms of layout is heavily dominated by the large area afforded to parking provision. The lack of context on a working agricultural holding does mean that despite the design cues the building does not, in officer opinion, wholly read as an agricultural structure, however overall it is suited to its purpose and the provision of ample parking is realistic and honest given its reliance on the private motor vehicle and its locational intent to exploit passing customers. The proposed external design is therefore considered to be acceptable subject to the detailed specification of finish materials to be considered within a planning condition and with the addition of more recently proposed brise soleils in order to minimise evening light spill as well as a condition restricting external lighting.

There was concern that as the floorspace afforded to retail provision is shared with that for use as café the lack of any internal subdivision between these spaces is of concern as this permeability could lead to the bleeding of one use into the other and an overall lack of clear definition as to how much retail space is proposed. The provision of potentially flexible floorspace for uses other than retail also raised questions as to whether the retail use was the primary use. However the Council is now in receipt of plans showing the gross and net retail areas and as such can condition that this area is retail only so as to control the ratio of café to retail to that which is shown and considered acceptable.

Landscape:

The site lies close to the boundaries of a number of differing landscape characters and types. This often makes for a more complex landscape which is influenced by a number of different features, landscape elements and forms. This raises the importance of fully understanding the site and its context, allowing the local characteristics to be noted and considered in the context of the proposed development. Similarly the site should be assessed for both its visual amenity and any harmful visual impacts resulting from the proposed development (from construction to implemented and mature planting) within the local and wider landscape, including the setting of the Dartmoor National Park (DNP). An appraisal has been carried out by officers in consideration of the above.

The proposed development is located on the north side of the A30, at the Whiddon Down junction. This has seen relatively recent junction improvements (about 11 years ago) and associated planting which is now beginning to mature. To the south, and separated by the trunk road, is the small village of Whiddon Down (WD) and also the WD A30 services and motel.

These are all within a rural landscape, on the moorland edge, but strongly influenced by the steeply undulating landscape and complex land patterns to the north. The presence of the A30 is clear but not always visually dominating although it does impact on the tranquillity and remoteness present further away from its influence. The proposed site is in close proximity to the associated junction movements and can be seen when travelling east along the A30 and from the A3124 overpass. The proposed building would be seen largely in isolation, on rising ground, however, would not appear to breach the skyline. This is not perceived as a prominent ridgeline in the wider landscape but whilst in a more elevated position, visual receptors are considered to have a low sensitivity (trunk road users) or at such a distance as to limit the harm and recognition as a non-agricultural building. The dominant

mass of Dartmoor will not be lost or adversely affected. The Landscape Character Assessment notes the very limited right of way network. This is further mitigated by existing vegetation but importantly significant new planting around the site boundaries and across the parking area. As noted by the DNP, there are opportunities to further enhance this which can be secured by condition.

In summary the proposed development will result in negligible to low/moderate harm to the current landscape character and visual amenity. Specialist landscape officers are satisfied that the overall landscape character is conserved given the scale, form and location of the proposal close to the A30. It therefore broadly accords with both existing and emerging landscape policies.

Protected Landscape

The proposed development is within the setting of the Dartmoor National Park; its officers have not raised an objection and WD officers broadly concur with the conclusions drawn, including the need to secure some additional strategic planting.

Detailed Design / Landscape Design

The landscape scheme has been well considered and will mitigate the proposed building in the wider and local landscape. Of particular note are the orchard and woodlands which reflect local character.

However, some additional consideration is required for the north-west elevations, through reduced glazing and potential light spill, and increased planting to frame views in and out from the site (within blue line ownership). As such this will be conditioned as will the addition of brise soleil to some of the larger areas of glazing.

Overall the Specialist Landscape Officer's opinion was that there was no objection subject to conditions to secure some additional planting and reduce potential light glare through large glazed openings.

Officers are in agreement that although the application site is within an elevated location and can be viewed by a number of receptors within the surrounding area overall it is acceptable as discussed below:

It is viewed when approaching for a short period along the A30 in an eastbound direction, and from the road bridge crossing the A30 at that point. After passing under the road bridge the application site is within an elevated and prominent position immediately above the approaching junction.

However, from this angle it is viewed within the context of the significant woodland screen behind the site to the east. Therefore, although the proposed building will be seen from this significant distance, it will sit subserviently underneath the substantial wooded background, and will not break the skyline. This context, in combination with the utilitarian and pseudo agricultural quality of the design response, leads officers to conclude that the proposal will sit acceptably within the landscape when viewed from the west.

With regard to light pollution, the openings on the west elevation are not excessive, and light emission from the windows would, in any case, be seen within the context of the multitude of car headlights and rear lights when viewed from this direction at night and will be lessened by additional planting and the brise soleil.

From the north the site does appear elevated on its approach, but it is also well shielded by the boundary vegetation which, with the opportunity for augmentation through the landscape condition, will successfully conceal the buildings from view.

Consistent with the comments made by the Dartmoor National Park Authority, officers consider that views from the National Park can be mitigated by a modified planting schedule. Dartmoor National Park is not objecting to this scheme.

The proposed development will be readily visible from the area immediately to the south and south east, in and around the A30 and the Whiddon Down junction. From areas below the site the development will be seen to rise up and break the skyline. However, it is important to appreciate that simply seeing a development is not analogous with it having a harmful visual impact. One must consider the impact of the development within the context of the prevailing landscape characteristics of the area.

This is an area dominated by the A30 and its various junctions and road spurs, in addition to the service station facility at Whiddon Down Services. Even though the Farm Shop will be visible within these areas, the prevailing character is therefore already engineered, with large scale arterial road engineering, associated retaining walls and banks, cuttings and embankments, spur roads and elevated service buildings. In addition to this, the significant noise pollution emanating from the A30 removes any sense of tranquillity one would normally associate with the countryside. Furthermore, commercial roadside facilities are an accepted element of landscape character at A road junctions and form part of the general kinetic experience along arterial routes, and indeed there are already such facilities along the A30, for example at Sourton junction.

Within this context, officers are satisfied that the proposed development will not unduly alter the existing landscape character nor have a harmful visual impact.

Economic Benefits

Although it has been clearly identified above that this proposal is not a 'Farm Shop' it does carry some of the economic benefits associated with such a shop as cited in the Council's Farm Shop policy which identifies that *'Farm shops can serve a vital function in rural areas by helping to meet the demand for fresh produce and providing new sources of jobs and services, in turn this will help contribute to the rural economy.'* Despite its lack of association with one particular agricultural holding, these benefits are also true of the current proposal.

In this case, officers also consider this site to be very well placed to take advantage of the thousands of people who travel through Devon along the A30; the site will be accessible to the significant number of commuters and tourists visiting both Devon and Cornwall. As such, this is regarded as a significant opportunity and platform from which to retail local produce and to promote the local economy to a wide ranging demographic.

Whilst both national policies and existing/emerging local policies encourage retail to be located in town centres where possible, they all acknowledge that there will be instances where this is not possible and where an alternative location for retail may be acceptable positive, and non-detrimental. For example, the preamble to Policy DEV16 (retail location) of the JLP states that:

' This policy provides some flexibility to enable carefully selected development outside settlement boundaries where it can be demonstrated that this could be achieved sustainably, taking into account how the proposal might reduce rural isolation, provide jobs for residents of the immediate area reducing commuting, and foster vitality without significant adverse effects on the local character and environmental quality'.

Neighbour Amenity:

The scheme is well isolated from neighbouring properties and will not have an unacceptable impact upon neighbour amenity

Highways/Access:

A number of concerns regarding this element have been raised by interested third parties. Due to the location of the site and access adjacent to the A30 and its junction, the scheme has been carefully considered by both Highways England and Devon County Council as the highways authority. Both are offering no objection and both have provided full written response. DCC have stated that:

“The application is supported by a Transport Statement prepared by transport consultants, Calibro. Although the scoping of the statement was not previously agreed with the highway authority, the content and conclusions are broadly acceptable to the highway authority.

From the highway authority's point of view, therefore, there are no objections in principle to the proposed development, and the access junction to serve the site has been designed such that it complies with contemporary design guidance for geometry and visibility

The signage schedule and plans in the Transport Statement show five proposed signs; two are on land that is part of the trunk road network under the control of Highways England and the remaining three are on land which does not appear to form part of the publicly maintained highway and is of unknown ownership. The applicant is advised that the highway authorities have strict criteria about the signing of commercial enterprises and these signs may conceivably be in breach of those constraints so may not be acceptable. An informative note to cover this aspect is included below.

It is also recommended that Highways England is also consulted with respect to the effect that the proposed development will have on the trunk road network, and the advertisement signs proposed on land for which they are responsible.’

Highways England have stated that:

Whilst access to the development is via an unnamed local road, the site is located a short distance to the north of the A30 Whiddon Down junction with the A382. The proposals are supported by a Transport Statement (TS) prepared by Calibro. We have considered the methodology used for the predicted trip generation and the adequacy of the proposed parking provision, and consider both to be acceptable.

We are therefore satisfied that the SRN can accommodate the level of trips associated with the proposed development and we have no objection in principle to the proposals.

However, due to the close proximity of the A30 eastbound off and onslip, it will be important to ensure that clear signage is provided from the local road network, to ensure that vehicles do not overshoot the local road junction. The TS includes an indicative proposal, but a detailed scheme will need to be agreed with the highways authorities and implemented prior to any development being brought into use. The applicant will need to be aware that signing will not be permitted within the trunk road boundary.’

Officers note the comment made by DCC regarding signage on third party land and, as these signs are superfluous in any case, these drawings are not included within this recommendation. However, Highways England has identified that signs are necessary within their land to prevent vehicles overshooting the junction, and the condition they are requesting to prevent this, seeking the detail of this signage, is included within the recommendation.

Officers are satisfied that the parking provision presented within the submission will satisfactorily cater for visits to the facility.

Ecology

The Council's biodiversity specialist has carefully considered the submitted ecological surveys and is satisfied with the findings. Initially at the time of writing the original officer report dormice surveys were outstanding. However, the worst case scenario for the outcome of these surveys was considered and would require the works to gain a licence from Natural England before they can proceed. The biodiversity specialist originally made his assessment against the existence of dormice within the hedgerow as the worst case scenario which triggered the need to carry out the three derogation tests. Since the previous officer report was written the full surveys have now been completed and submitted and have demonstrated the presence of dormice and as such the derogation tests are applicable as follows:

Imperative Reason Overriding Public Interest – Officers regard this to be an important opportunity to capitalise on an accessible site well placed to bring local goods to a wide ranging market and showcase produce. The potential boost that this provides to the local rural economy combined with any other economic benefits such as repeat visits, the potential ripple effect to local suppliers of produce and staff employment (5 full-time 5 part time) is considered to meet this test.

No Satisfactory Alternative – The location exploits the plentiful customer base and whilst being alongside the A30 and elevated is surprisingly well screened and innocuous. It is clear that the design approach, specifically the landscaping, has had to take into account a number of factors, including the need for safe access and the need to assimilate the development into the site whilst managing the slope of the site. The site is relatively central to the sited potential suppliers and the % of produce limitations conditioned. This junction is relatively new in terms of the age of the A30 and as such already reads as a heavily engineered/developed point along this route thus lessening the impact of this further proposal by avoiding other more naturalised landscapes or those with a greater time-depth. Equally the location of the site is such that it does not impact upon Dartmoor National Park being a nationally designated landscape, sensitive to changes to its setting. Due to the unusually low number of public footpaths offering views to the site the visual impacts of the development is very low.

In considering the finer detailed elements of the sites development for the use proposed the ecological harm as identified is resultant from a specific removal of hedge in order to facilitate the access to the site. It is understood that during the development's initial design iterations several different access arrangements were considered, but it was concluded that the final design solution was the most appropriate and provided safe access to the highway network. The access provides the necessary visibility splays to provide safe access in and out of the site whilst the internal layout provides the swept path requirements to allow deliveries to access the site.

Overall then officers are satisfied that there is no satisfactory alternative both in terms of the location of the development or in terms of the loss of landscaping such as it is.

Maintenance of Favourable Conservation Status – the ecologist has outlined mitigation (either the standard 1 or 2 stage vegetation removal methods used where dormice are present, and ecologist supervision) and compensatory provisions (hedgerow translocation, 14 dormouse boxes, and new habitat creation comprising approximately 38m of species-rich hedgerow, 2,100m² of tree planting and 750m² woodland edge planting). These measures would maintain the favourable conservation status of the dormice (the habitat creation measures in fact would be expected to significantly enhance available habitat) and accordingly this test is considered met.

Other than the access point, the internal layout seeks to minimise the impact upon the field boundaries requiring only the removal of approximately 7m of the eastern boundary hedge bank and approximately 10m of the southern boundary hedge bank to facilitate vehicle access into the site. As noted above, we propose to translocate areas of hedge bank within the proposed development site, mitigating the loss of these sections and providing opportunities for biodiversity enhancements.

Officers also consider the significant enhancement of habitat, delivered through the landscaping scheme, to be an environmental benefit which heavily weighs in favour of this application.

Other Matters:

Thornbury Farmhouse is the nearest listed building and is 650m away to the NNE of the site and its main aspect is N-S. It is predominantly enclosed on all sides by agricultural buildings of various materials heights and ages and as such any wider views to and from it are intermittent at best and views from it certainly quite constrained by existing structures. It is not the type of property to have had designed views and its main aspect is offset from the proposal in any case. There are few public rights of way in the area and due to the high sided road hedges the number of locations affording views of both are minimal. Additional planting and the brise soleil will minimise light spill and the development is

already set against the settlement of Whiddon Down and its services plus the light and disturbance of vehicles on the A30. Whiddon Down does not have a Conservation Area, nor any Listed buildings in proximity to the application site. As such it is not considered that this proposal will affect the setting of, or cause any harm to, Thornbury or any other LB.

A number of third party representations have been received from representatives of existing farm shops within the locality. Although the potential impact of a development upon village vitality or community assets is a legitimate material planning consideration, the commercial impact upon competing businesses as a result of greater commercial competition is not. This is a fine balance, however as discussed above, it is considered that the scale of this proposal combined with the limiting conditions regarding use and goods to be sold are adequate to ensure that the proposal can prosper and provide healthy competition whilst not unduly impacting upon the commercial vitality and viability of the existing businesses or community assets within the immediate or wider area.

Conclusion

In reassessing this application officers have reached conclusions that diverge from the previous assessment as to whether the development constitutes a “farm shop”. This reassessment has confirmed that the development does not meet the intent of those specific policies relating to farm shops within current or emerging Development Plan policy.

In acknowledging the above, officers have concluded that the nature of the enterprise requires that it should be considered as a small scale rural development. Therefore whilst the development as proposed does not meet the definition of a farm shop it cannot simply be refused and should be assessed against the relevant policies relating to both retail and small scale rural development.

As has been set out within the main body of the report the size of this development is such that it falls below the established and well used thresholds that would trigger the need for either a retail impact study or sequential testing.

In arriving at their conclusions on this proposal officers have given careful consideration to the various impacts of the development as noted within the report. In doing so they have identified that suitable conditions can be imposed to make the scheme acceptable in planning terms.

In light of all of the above officers are therefore of the view that whilst the proposed development cannot be considered as a farm shop, there are positive economic and social impacts that will occur as a result. This in combination with the lack of negative visual and landscape impact as well as the proposed ecological and landscape mitigation and enhancement of the site to the benefit of the locality all weigh in favour of granting consent.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development
SP10 – Supporting the Growth of the Economy
SP11 – Rural Regeneration
SP12 – Retailing
SP13 – Community Services and Facilities
SP17 – Landscape Character
SP18 – The Heritage and Historical Character of West Devon
SP19 – Biodiversity
SP20 – Promoting High Quality Design
SP21 – Flooding

West Devon Borough Council Local Plan Review 2005(as amended 2011)

NE10 – Protection of the Countryside and Other Open Spaces
BE13 – Landscaping and Boundary Treatment
ED14 - Employment
ED16 – Rural Employment
ED20 – Farm Shops
R2 – Retail
R5 – Small-scale Shops
TLS5 – Recreation
T8 – Car Parking
T9 – The Highway Network
PS2 – Sustainable Urban Drainage Systems
PS3 – Sewage Disposal
PS4 – Private Water Supply

Status of emerging JLP policies for decision makers

The Plymouth & South West Devon Joint Local Plan has undergone a main modifications consultation (22 Oct – 03 Dec 2018) as part of the examination in public to determine the soundness of the plan. The joint councils are waiting to hear from the Planning Inspectorate (PINS) regarding the next steps. Until PINS provide an update, the JLP councils are unable to commit to a timetable for adoption.

The National Planning Policy Framework provides guidance on the weight that can be given to policies in emerging local plans in paragraph 48:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The JLP is nearing the conclusion of the examination process, and can be considered to be at an advanced stage of preparation.

Whilst technically all objections are unresolved until the Inspectors' issue their Final Report, some policies which did not receive objections at the Reg 19 stage could be given very significant weight. The nature and scope of objections made regarding each policy have been taken into account when determining the weight to be apportioned to each emerging policy.

The Council consider that all emerging policies are compliant with the NPPF. It should be noted that the JLP is being examined against the provisions of the 2012 NPPF, and therefore for the purposes of paragraph 48 of the NPPF policies should also be assessed for their conformity against the 2012 NPPF.

In considering the merits of this proposal, case officer recommendations are informed by the weight that can be attributed to emerging JLP policies and adopted development plan policies, as well as the degree of conformity with the 2018 NPPF.

PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)

SPT1 Delivering Sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
SPT5 Provision for retail development
SPT6 Spatial provision of retail and main town centre uses
TTV2 Delivering sustainable development in the thriving towns and villages policy area
TTV31 Development in the Countryside
DEV1 Protecting amenity and the environment
DEV2 Air, water, soil, noise and land
DEV15 Supporting the rural economy
DEV16 Providing retail and town centre uses in appropriate locations
DEV17 Promoting competitive town centres
DEV18 Protecting local shops and services
DEV20 Place shaping and the quality of the built environment
DEV24 Landscape character
DEV27 Nationally protected landscapes
DEV28 Protecting and enhancing biodiversity and geological conservation
DEV30 Trees, woodlands and hedgerows

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Planning 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: To comply with 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 and documents to be listed on the decision notice.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Prior to installation, samples of the materials to be used in the construction of the external surfaces, including roofs, shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To enable the Local Planning Authority to consider the details of the materials.

4. The farmshop shall not be open to customers other than between the hours of 0900 and 2100, Monday to Sunday inc. bank holidays otherwise agreed to in writing by the LPA'. The ancillary café opening hours will be restricted to 0900 to 1800 Monday to Sunday inc. bank holidays, except for 90 days during the peak holiday months (April to September) when it will operate in accordance with the farmshop opening hours. The sale of plated meals shall be excluded during the extended opening period.

Reason: In the interests of public amenity and to safeguard the vitality of a local facility

5. No less than 60% of products sold for retail (A1) at the Whiddon Down Farmshop shall be produced or reared from within the Council areas of West Devon, Mid-Devon and Dartmoor National Park , not more than 20% of products sold for retail (A1) at the Whiddon Down Farmshop shall be produced or reared from within the county of Devon and not more than 20% of products sold for retail (A1) at the Whiddon Down Farmshop shall be produced or reared from elsewhere

Reason: To ensure compliance with policies SP12 and DEV16 and in the interests of the local economy.

6. There shall be no display or retail of any of the following;

- I. Daily newspapers and magazines
- II. Stationery
- III. Chemist/ pharmaceutical goods

Reason: To ensure compliance with policy ED20

7. Notwithstanding the provision of the General Permitted Development Order, the premises shall only be used as an A1 retail unit, A3 cafe and associated ancillary uses. 'The ancillary café area hereby approved shall be used in conjunction with the integral A1 use within the application site and shall not be sold or operated separately.

Reason: To ensure compliance with policies SP12 and DEV16, in the interests of the local economy

8. There shall be no A1 retail use beyond the area as denoted in pink on the approved "Gross Retail Space Plan"

Reason: To ensure compliance with policies SP12 and DEV16, in the interests of the local economy

9. Notwithstanding the submitted information, no development shall be commenced until full details of the most sustainable drainage option has been submitted to and approved in writing by the Local Planning Authority (LPA). Design steps as below:

1. Soakaway testing to DG 365 to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in the report.

2. Soakaway to be designed for a 1:100 year event plus 40% for climate change.
3. The permeable paving should be designed in accordance with CIRIA C753. Full design details and sectional drawing showing the specification and make up will be required.
4. A scaled plan showing full drainage scheme, including design dimensions and invert/cover levels, within the private ownership.
5. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed with the Local Planning Authority.
6. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development.

10. Notwithstanding the submitted details, no development shall be commenced until:

Details of the works for the disposal of sewage have been submitted to and approved in writing by the Local Planning Authority, and the dwelling shall not be occupied until the approved works have been completed to the satisfaction of the Local Planning Authority. Details to include a completed FDA1 form and justification for private foul system.

If the proposed development results in any changes/replacement to the existing system or the creation of a new system, scale plans of the new foul drainage arrangements will also need to be provided. This will include a location plan, cross sections/elevations, specification and its capacity to hold additional load. Landscape Plan prior to commencement

Reason: To ensure the delivery of an appropriate foul drainage scheme

11. No development shall take place until there has been submitted to and approved by the Local Planning Authority an improved scheme of landscaping, which shall include indications of all existing trees and hedgerows on the site and details of any to be retained, together with measures for their protection in the course of development, and additional planting to assimilate the development into the site when viewed from the Dartmoor National Park.

All planting, seeding, turving or hardsurfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: To ensure the provision of an appropriate landscaping scheme in the interests of the visual amenities of the locality and to assimilate the development into its surroundings.

12. A traffic signage scheme shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Highways England) and the approved signage scheme implemented prior to the development being brought into use.

Reason: In the interests of highways safety

13. Any removal of hedgerow to facilitate access shall proceed in accordance with measures detailed in section 5.3.3 of the Preliminary Ecological Appraisal (Blackdown Environmental, v3

1st Aug 2018). In the event that the detailed dormouse survey finds evidence of dormice, no works to the hedgerow shall commence until the LPA has been provided with a copy of the licence for Dormice issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the works to go ahead.

Reason: In the interests of biodiversity

14. All avoidance, mitigation and enhancement measures detailed in Appendix 6 of the Ecological Appraisal (Blackdown Environmental, November 2018) shall be strictly adhered to and implemented in full.

Reason: In the interests of biodiversity

15. No works to remove the hedgerows shall commence until the LPA has been provided with a copy of the licence for Dormice issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the works to go ahead.

Reason: In the interests of biodiversity

16. No works or development shall take place until a scheme for the protection of the retained trees has been agreed in writing with the Local Planning Authority. This scheme shall be in accordance British Standard 5837:2012 -Trees in relation to design, demolition and construction - Recommendations and shall include:

a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (paragraph 4.6 of BS5837) of every retained tree and hedge on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan;

b) a schedule of tree works for all the retained trees in the paragraphs above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, Recommendations for Tree Work; of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction;

c) the details and positions (shown on the plan at paragraph (b) above) of the Tree Protection Barriers (section 6.2 of BS5837:2012), identified separately where required for different phases of construction work (e.g. construction, hard landscaping). The Tree Protection Barriers shall be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase;

Reason: In order to identify, and protect, trees of public amenity value

17. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

18. Notwithstanding the provisions of the General Permitted Development Order, there shall be no external alterations or extension to this approved building without prior formal approval by the LPA

Reason: In order to protect the setting of the National Park and this countryside location

19. There shall be no exterior lighting installed other than that which has already been approved, without the prior approval of the LPA.

Reason: in the interests of the setting of the National Park, the countryside location and biodiversity

20. Prior to the first use of the building the brise soleil as approved shall be installed on the buildings in locations which shall first have been approved by the LPA, and retained as such thereafter.

Reason: In the interests of the setting of the National Park, the countryside location and biodiversity

21. Prior to the building being brought into first use, the applicant shall submit for approval, full details of proposed electric vehicle charging points to be provided, these details shall include the location, number and power rating of the charging points. This shall accord with good practice guidance on mitigating air quality impacts from developments produced by the Institute of Air Quality Management.

This agreed scheme shall be implemented as agreed and available for use prior to first occupation of any building approved by this permission, and retained as such.

Reason: in the interests of the environment, health and air quality management

APPENDIX