

# PLANNING APPLICATION REPORT

**Case Officer:** Jacqueline Houslander

**Parish:** Totnes **Ward:** Totnes

**Application No:** 0894/16/FUL

**Agent/Applicant:**

Mr Tim Capps  
Oxenham Manor  
EX20 2RQ

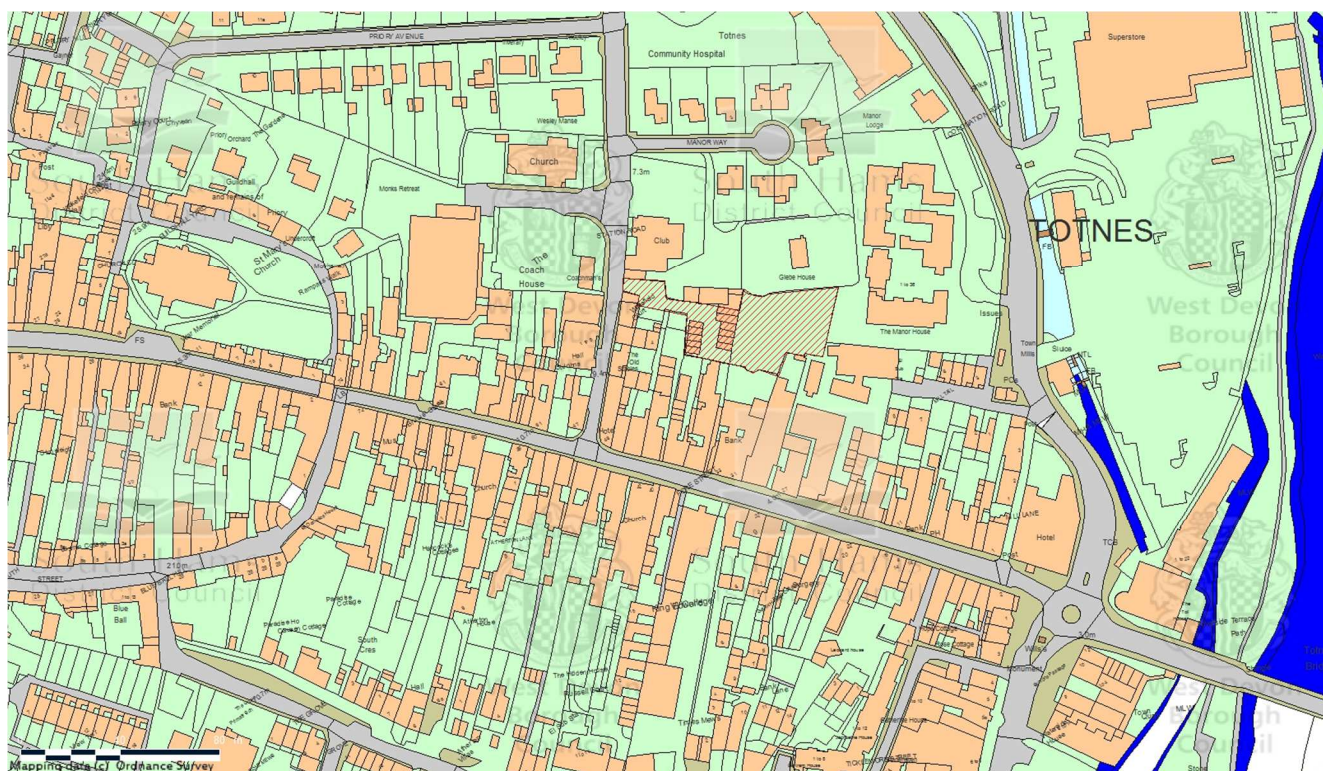
**Applicant:**

Mr David Hart  
C/O Stratton Creeber Commercial  
75 North Hill  
Plymouth  
PL4 8HB

**Site Address:** Private Car Park & Garages rear of, 27-45 Fore Street, (Accessed off Station Road), Totnes, Devon, TQ9 5RP

**Development:** Development of three residential units

**Reason it is going to Committee:** The three local members request that the above application be referred to the next DMC meeting on the grounds that it has caused controversy as a result of the possible loss of a local amenity. The council needs to be seen to be acting in a transparent manner in dealing with this application in view of the controversy. This is best achieved by reference to the DMC.



**Recommendation:** Conditional Approval

## **Conditions**

Time limit

Accord with plans

Details of levels to be submitted prior to commencement

Samples of materials to be agreed

Removal of PD rights

Landscaping scheme

No removal of boundary walls without prior consent of the LPA

Highway condition

3 x contaminated land conditions

Programme of archaeological recording

The traditional walls which surround the application site shall be retained and maintained in accordance with a scheme to be submitted and approved by the Local Planning Authority within 3 months of the date of this planning consent.

## **Key issues for consideration:**

Whether the development is appropriate on the site

Impact on residential amenity

Loss of parking

Design

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## **Site Description:**

The site is an existing private car park situated at the rear of Fore Street in Totnes. The land currently contains 30 car parking spaces as well as 11 garages in 2 blocks. The site also provides access to a private car park to the rear of Lloyds Bank. This access will remain. Because of the location of this site within the town centre the site is surrounded by other developments. The rear gardens/yards of the properties fronting onto Fore Street. Some of these gardens also have residential units within them that have their vehicular access off the access lane to the development site. The car park is almost entirely surrounded by traditional walling beyond which lie other residential properties and their gardens and storage/outbuildings.

The site lies within Totnes Conservation Area and there are listed buildings nearby (35 and 37 Fore street and the Conservative club).

## **The Proposal:**

The proposal is to erect 3 new houses on the land. The proposed houses are proposed as 4 bedroom dwellings, with gardens and parking including double garages. A fourth plot was originally included in the scheme which was a smaller two bedroom unit, however it was in very close proximity to a neighbouring property and it was considered that the fourth dwelling led to an over development of the site.

Access is proposed via the existing access to the car park off Station Road. One block of existing garages will be demolished to provide access for the 3 dwellings.

The elevation drawings show two storey dwellings, with materials comprising painted ender; slate hanging; larch cladding; iron stone local stone with a natural slate roof. The windows and doors are proposed as timber.

Highway Authority: The application is for 4 modest sized dwellings on land that is currently used for parking in the form of a private car park for around 30 plus spaces and 9 garages. The garages appear to be fairly small in size and so practically would unlikely have been used for parking vehicles in. The site is within Town Centre and the surrounding public highway is controlled by restricted parking. On the basis that the proposals will likely reduce the traffic using the completely blind access the Highway authority have no objections to the application.

### **Representations from Residents**

Comments have been received and cover the following points:

- The car park is much needed in the town, the loss of which will have an impact on local businesses.
- Concern at the impact of overlooking into neighbouring businesses and properties.
- Impact on loss of light to surrounding properties.
- On behalf of Totnes and District Traffic and Transport Forum

### **Representations from Statutory Consultees**

- Strategic Planning SH: No comments
- Totnes Town Council: No objection. Amended response dated 16/6/16: The 6 week consultation period should run from the 25<sup>th</sup> May 2016 when the proposal was re-advertised. A Tree preservation Order should be considered for the mature Beech tree standing in Mrs Gillmores garden which would be impacted by the proposed development due to the overhanging. A site visit to view the impact on Mrs Gillmores property should be undertaken by a planning officer prior to any approval; a survey should be carried out on the old town wall between Mrs Gillmores property and steps taken to protect it given the historical value.
- Affordable housing: Support provided the applicant pays an off- site financial contribution towards affordable housing of £122,387.00. Second response dated 20/5/16 No longer require an affordable housing contribution.
- Conservation: No comments received
- Environment Agency: We have no objection. Further to our previous consultation response [raising objection] of 23<sup>rd</sup> August 2016 the applicant's engineers submitted information showing that the site is located in Flood Zone 1. We support and agree with the analysis undertaken, thereby concluding that no further consideration of flood risk matters is required.
- Environmental Health: Recommend 3 contaminated land conditions
- Archaeology: Recommend conditions relating to the need to submit a programme for the implementation of archaeological recording.

Drainage: **Objection:** Based on the information provided we would object to the current proposal on the grounds of insufficient information. As such we would recommend that the application is not decided until these issues have been overcome.

### **Observations and comments**

The Flood risk Assessment submitted with this application indicated that soakaways will be used to manage the surface water. No plans have been provided and there

doesn't look to be enough room on site to fit any size soakaway and comply with the minimum 5m clearance to buildings as required by building regulations.

As there is no gravity connection to the sewer then there is no option of a fall back solution as a pumped surface water scheme is unsustainable and would not be supported. As the only option is for soakaways then we will need to be confident that they will work and can be accommodated on site.

The foul drainage is proposed to be connected to the public sewer. This will require written confirmation from SWW that their system has capacity.

SuDS should be designed to reduce or manage the surface water as close to source as possible. The drainage hierarchy should be followed with the top of the list as first choice. Evidence will be required to show each option has been explored and discounted.

1. By infiltration, soakaway.
2. Discharge to a water course, attenuation maybe required.
3. Discharge to the public sewer, attenuation will be required and permission from SWW.

This information is required before a complete assessment of the application can be made.

#### Overcoming the objection

To overcome the objection the applicant will need to provide:

1. Drainage assessment providing full details of the surface water scheme.
2. If soakaways are proposed then testing to BRE digest 365 will be required. Please provide test pit logs and calculate the infiltration rate in m/s
3. SuDS to be designed for a 1:100 year + 40%cc return period. Supported by calculations and testing were required.
4. Written confirmation from SWW to connect the foul drainage to the public sewer.

#### **A REVISED DRAINAGE STRATEGY WAS SUBMITTED BY THE APPLICANT AND THE FOLLOWING IS THE REVISED DRAINAGE RESPONSE:**

The principle of the drainage scheme is ok. A few minor points are:

1. The discharge rate could do with being lower as otherwise you are always discharging at the 1:100 year rate (unless it is designed to meet each of the return periods.)
2. There will need to be a management and maintenance plan to show who is responsible and frequency for cleaning etc.
3. Confirmation that the attenuation and flow control device are in communal /shared space.
4. Surface water and foul drainage runs should be kept separate until the last manhole connecting to the combined sewer

I would suggest that the final details along with the management and maintenance plan can be dealt with by condition

#### **Relevant Planning History**

56/0470/74/4 - Extension of existing Lloyds Bank car park to provide ten additional spaces for customers. Approved 20<sup>th</sup> Aug 1974

## ANALYSIS

### Principle of Development/Sustainability:

The proposal falls to be considered against policies relating to the location of development, Policy CS1 in the South Hams Core Strategy and policy SHDC1 in the South Hams Local Plan, which are permissive of development which is within settlement boundaries. Therefore in principle the development would be acceptable.

### Design/Landscape:

Policies CS7 Design in the South Hams Core Strategy and DP2 in the Development Policies DPD seek to ensure that development proposal achieve a high quality of design.

Development needs to respond positively to its context; show an understanding of its context by taking account of layout, scale, appearance and materials as well as any relevant natural or historic features and seek to enhance the character of the area.

In this case the applicant initially presented a scheme which was considered over development because of the tight knit nature of the context and the potential impact of 4 dwellings on that character and also to protect the residential amenities of the surrounding development. However the 4<sup>th</sup> dwelling has now been removed from the proposal and as such it is considered that there is space to adequately accommodate 3 dwellings.

The proposed dwellings are quite large, which is not a characteristic common along the high street, where development is quite small in scale and dense in character. However to the rear of the site there are examples of larger dwellings, such as the dwellings in the Manor house and Glebe House to the north of the site.

It could therefore be argued that the larger dwellings proposed with smaller gardens could be transitional between the high density of Fore Street and the lower density dwellings behind the site.

In terms of materials the proposed dwellings are to use traditional materials, such as natural stone and slate, larch cladding, and timber windows and doors, all of which are high quality and are commonly used in the Conservation area.

Each of the three properties has a double garage proposed as well as room for parking outside. The gardens of the proposed dwellings are small in relation to their size, however it is a town centre location and there will be other properties within the vicinity with little or no outside space.

### Neighbour amenity:

Policy DP3 seeks to ensure that residential amenity is not harmed by development proposals. The policy states that unacceptable impact will be judged against the level of amenity generally accepted within the locality. The initial proposal for 4 dwellings proposed a 2 storey house abutting a traditional wall which was also the garden of a dwelling at the rear of Fore Street. The proposed dwelling would have caused a loss of residential amenity to the occupier of the property by being overbearing, potentially risking damage to the wall and a loss of privacy. The applicant initially reduced the height of the proposed dwelling, whilst retaining first floor in the roof space, which would have overcome the loss of privacy aspect, however would it is considered still have been overbearing.

The remaining three properties are located away from the properties at the rear of Fore Street, but closer to the properties at the rear of the site.

Plot 4 is quite close to the boundary with Glebe House to the north. There is an existing traditional 2 metre high wall between the site and the adjacent property and there are no windows at first floor level on the elevation facing that property.

Plots 3 and 4 are also along the eastern boundary again where there is a traditional stone wall of approximately 1.8 metres in height. The rear of the dwellings are situated approximately 10 metres from the boundary at its widest and 6 metres at its narrowest. There are bedroom windows at first floor facing the rear. There are also a number of mature trees along this boundary. Whilst it is probably not possible to achieve 21 metres window to window in this location, because of the density of development, it is considered that there is enough vegetation and boundary walling and distance to ensure that there is no loss of privacy and that the dwellings will not feel too overbearing on the adjoining properties.

#### Highways/access:

The Highway Authority state that the access is blind, however acknowledge that the amount of traffic using the access is likely to be less with the development proposed than currently with the use of the site as a car park. As a result, they have no objections to the proposal.

#### Other matters:

There have been a number of objections to the loss of the car park, as a result of the development proposed. What must be borne in mind is that the car park is a private car park at the moment and as such could be closed at any time. However Policy DP9 in the Development Policies DPD does seek to retain local facilities and would not permit development which involves the loss of those facilities unless it can be shown there is no demand, that the provision can be provided elsewhere or it can be shown to be on a viable. Local Facilities are described in the DPD's supporting text as '*community facilities such as open space, sport and recreation facilities, community buildings, doctor's surgeries, care homes, cultural facilities, libraries, places of worship, childcare facilities, children's and youth centres*'

The definition does not include car parks as such a facility and so in effect the policy stipulations cannot be applied to this proposal. In addition there is provision elsewhere in the town centre. A small car park serving Budgens but which is available for paid parking on the other side of Station Road, as well as the large Morrisons' carpark adjacent to the river. There is also large car park off Leechwell Lane and the Victoria Street car park.

It is considered therefore that the loss of the private car park is not a local facility that can be controlled by Policy DP9 and so whilst it may be an inconvenience it is not of sufficient weight to warrant insisting on its retention, or to refuse the application.

#### Conservation and Listed Building issues:

The proposal site does lie within the Totnes Conservation Area and so as such policy CS9 Landscape and Historic Environment, of the Core Strategy and DP6 Historic Environment apply. The Core Strategy states that the historic environment will be preserved and enhanced. Policy DP6 is slightly more detailed and specific about how the historic environment can be preserved, requiring a focus on design, siting, height, materials, colours and visual emphasis and that any development should take into account local context. The policy also refers to demolition in a Conservation Area. This proposal involves the demolition of one block of garages. The garages are concrete shuttering construction with timber doors and are in a relatively poor condition. They do not serve in themselves to enhance the Conservation Area.

With regard to the impact of the development on the Conservation Area, the Archaeology Officer has asked for recoding programme to be agreed as a condition. The scale of the development had been reduced from 4 to 3 units which fits better on the site, and the design of the buildings has been described above and it does respect the character of the site and will be using materials which are traditionally found within the locality and are of a high quality. Those materials will be submitted via planning condition to be agreed prior to the commencement of development. The proposal will result in an area of back land being tidied up and improved in quality; the traditional boundary walls which are a particular feature of this site will be retained and maintained and a planning condition will secure this; Permitted development rights will also be removed to prevent any inappropriate ancillary development taking place which could harm the character of the area and/ or loss of residential amenity to other properties. It is thus considered that the proposal will preserve and enhance the Conservation Area.

In terms of Listed Buildings. There are 3 in reasonably close proximity, 35 and 37 Fore Street. However both of these buildings have had ancillary development take place in their rear curtilages over the years and the proposed dwellings are far enough away not to have an impact on their setting. The third Listed Building nearby is the Conservative Club building which is located off Station Road but whose curtilage backs onto the access road for this development site. Whilst it is possible that the new dwellings will be visible from the Conservative Club building there is other development in between and with the high boundary walls in the area the impact on the Conservative Club building is likely to be negligible.

Affordable housing: Because of the low number of dwellings proposed on the site and recent government guidance on requesting affordable housing contributions, this proposal would not need to provide an off-site affordable housing contribution.

Drainage: There was originally a drainage objection to the proposal, however the applicant has submitted a revised drainage strategy which is acceptable to our drainage engineers provided some minor details are secured by planning condition.

#### Planning Balance

Having secured amendments to the scheme which has overcome the immediate neighbours concerns there is no longer an issue with the development affecting the residential amenity of neighbouring properties. In Conservation terms the development proposes quality materials and does not have a negative impact on nearby listed buildings. Access to the site is tight, but acceptable by virtue of the fact that the site has been used as a car park for a number of years. The loss of the car park has been raised as a concern however as it is a private car park, the applicant could if he wished close it whenever he chooses and so it is not an issue which as a Planning Authority can be controlled and as such is not a material consideration in this case.

It is therefore considered that the scheme as amended is acceptable and approval is recommended.

***This application has been considered in accordance with section 38 of the planning & compulsory purchase act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.***



## **Planning Policy**

### ***NPPF***

#### ***South Hams LDF Core Strategy***

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

#### ***Development Policies DPD***

DP1 High Quality Design

DP3 Residential Amenity

DP6 Historic Environment

DP7 Transport, Access & Parking

DP9 Local Facilities

DP11 Housing type and tenure

#### ***South Hams Local Plan***

SHDC 1 Development Boundaries

#### ***Emerging Joint Local Plan***

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation, with the pre-submission version formally approved by South Hams District Council, West Devon Borough Council and Plymouth City Council for a six-week period for representations, pursuant to Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations. It is also considered to be consistent with the policies of the Framework, as well as based on up to date evidence. However, until the Regulation 19 stage has concluded, and the scale and nature of representations known, it is considered that the JLP's policies will generally have limited weight within the planning decision. The precise weight will need to be determined on a case by case basis, having regard to all of the material considerations.

The policies relevant to this development proposal are:

SPT1 Delivering sustainable development

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV25 Spatial priorities for development in Totnes

DEV10 Delivering high quality housing

DEV21 Conserving the historic environment

DEV31 Specific provisions relating to transport



## DEV22 Development affecting the historic environment

Other material considerations include the policies of the Framework itself and guidance in National Planning Practice Guidance (NPPG).

### **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.

### **Recommended 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 approved shall in all respects accord strictly with drawing number(s) 596 – 03 Site location plan; 596 – 32A Plot 2 Elevations; 596 – 33 B Plot 3 Elevations; 596 – 34C Plot 4 Elevations; 596 – 22C Floor plans; received by the Local Planning Authority on 14<sup>th</sup> April 2016.  
596 – 03A Block Plan; 596 – 05 C Ground floor block plan; 596 – Design and Access Statement Rev 2, received by the Local Planning Authority on 22/2/17

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. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order, 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

- (a) Part 1, Class A (extensions and alterations)
- (b) Part 1, Classes B and C (roof addition or alteration)
- (c) Part 1, Class D (porch)
- (d) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwelling house and; (b) container used for domestic heating purposes/oil or liquid petroleum gas)
- (e) Part 1, Class F (hard surfaces)
- (f) Part 1, Class G (chimney, flue or soil and vent pipe)
- (g) Part 40, Class A & B (Installation of domestic Microgeneration Equipment)
- (h) Part 1, (h) including those classes described in Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (and any Order revoking and re-enacting this Order)
- (i) Part 2, Class A (means of enclosure) and;

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality.

### **PRE-COMMENCEMENT CONDITION**

4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a 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. All planting, seeding, turfing 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.

#### PRE-COMMENCEMENT CONDITION

5. No development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have 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.

6. The traditional walls which surround the application site shall be retained and maintained in accordance with a scheme to be submitted and approved by the Local Planning Authority within 3 months of the date of this planning consent.

Reason: To protect the character of the conservation area and the residential amenity of neighbouring properties

7. Prior to the commencement of development a plan indicating the finished floor levels of the dwellings hereby approved shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the agreed levels plan.

Reason: In order to protect the residential amenity of surrounding properties.

8. The boundary walls of the application site shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason: To protect the character of the Conservation Area and the residential amenities of nearby properties.

9. Prior to the commencement of any part of the site, the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) The timetable of the works
- (b) (b) daily hours of construction
- (c) Any road closures;
- (d) Hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8.00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in writing
- (e) The number and sizes of vehicles visiting the site in connection with the development and frequency of their visits

- (f) The compound location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) Areas on site where the delivery vehicles and construction traffic will load and unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County Highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) Hours during which no construction traffic will be present at the site;
- (i) The means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst the construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes
- (m) Details of the amount and location of construction worker parking
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

10. Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing by the Local Planning Authority.

1. A preliminary risk assessment/desk study identifying:

- All previous uses;
- Potential contaminants associated with those uses;
- A conceptual model of the site indicating sources, pathways and receptors
- Potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer – term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these elements require written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: A further investigation is required to determine the likelihood of contamination as stipulated in the Phase 1 report already submitted. The condition covers the full range of measures that may be needed depending on the level of risk at the site.

11. 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 amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: This condition is required where no desktop study has been carried out or if the

desktop study failed to completely characterise a site.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with guidance in paragraph 3.69 of South Hams Policy DP6 and paragraph 141 of the National Planning Policy Framework that an appropriate record is made of archaeological evidence that may be affected by the development.

13. Prior to the commencement of development details of the discharge rate; a management and maintenance plan showing who is responsible and the frequency of cleaning; confirmation that the attenuation and flow control device are in communal/shared space and confirmation that the surface water and foul drainage runs are kept separate until the last manhole connecting to the combined sewer shall be submitted to and agreed by the Local Planning Authority. The drainage scheme shall then be constructed in accordance with these agreed details.

Reason: To ensure adequate foul and surface water drainage is provided for the site.