

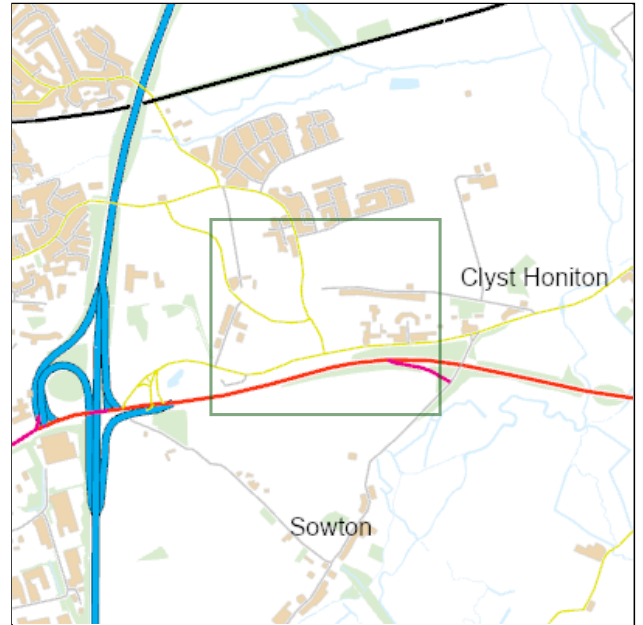
**Ward** Broadclyst

**Reference** 23/0976/VAR

**Applicant** Eagle One MMIII Ltd

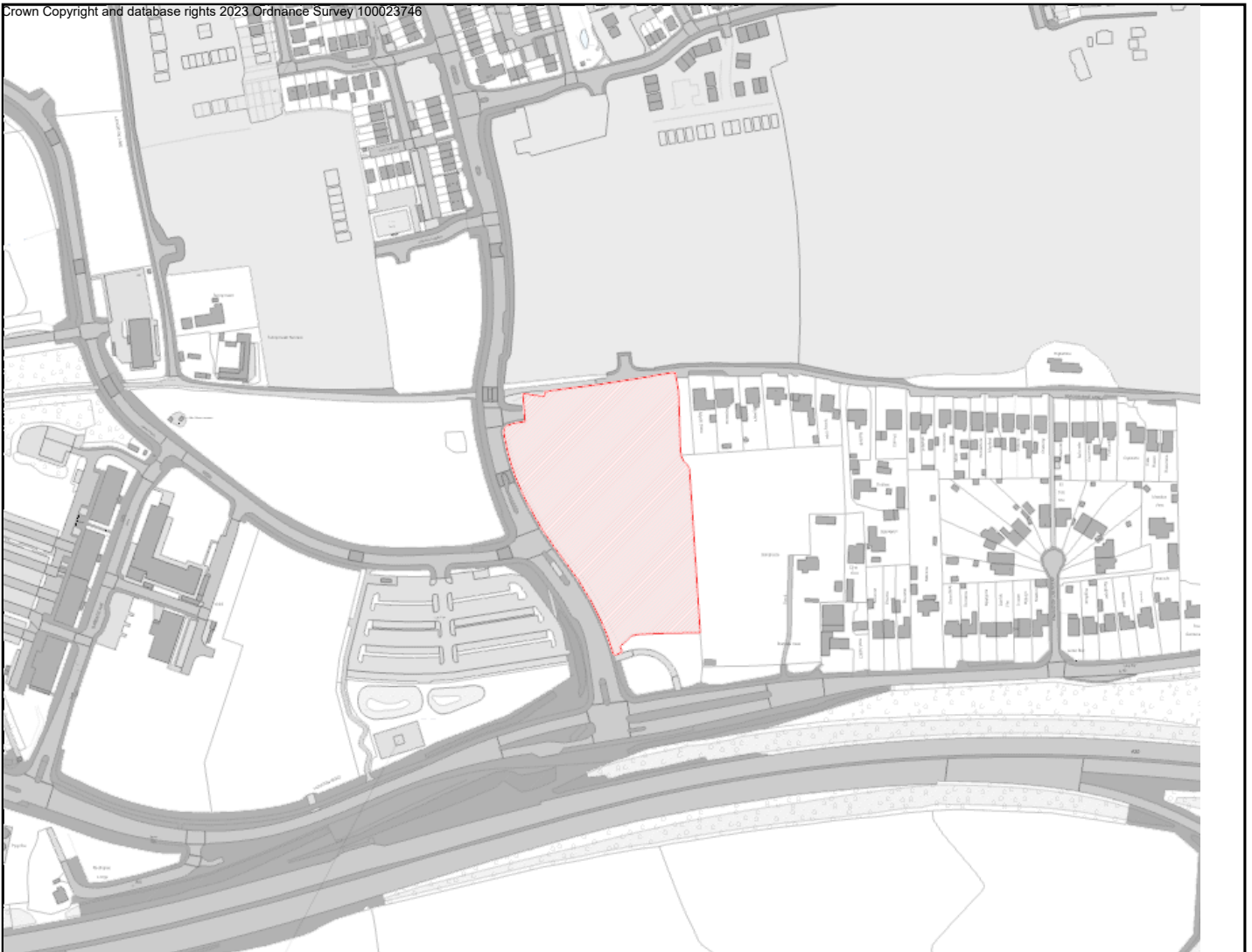
**Location** Land To The East Of Anning Road/ Tithebarn Way Redhayes Exeter

**Proposal** Variation of condition 22 (requiring the development to connect to the Decentralised Energy Network) of planning permission 21/3148/MOUT (up-to 6000 sqm of office development) to allow flexibility for alternative heating options to be considered.



**RECOMMENDATION: Refusal**

Crown Copyright and database rights 2023 Ordnance Survey 100023746



		<b>Committee Date: 22.08.2023</b>
<b>Broadclyst (Broadclyst)</b>	<b>23/0976/VAR</b>	<b>Target Date: 02.08.2023</b>
<b>Applicant:</b>	<b>Eagle One MMill Ltd</b>	
<b>Location:</b>	<b>Land To The East Of Anning Road/ Tithebarn Way Redhayes</b>	
<b>Proposal:</b>	<b>Variation of condition 22 (requiring the development to connect to the Decentralised Energy Network) of planning permission 21/3148/MOUT (up-to 6000 sqm of office development) to allow flexibility for alternative heating options to be considered.</b>	

**RECOMMENDATION: REFUSAL**

#### **EXECUTIVE SUMMARY**

**This planning application is before members of the Planning Committee because officer recommendation differs from that of Broadclyst Parish Council.**

**Planning permission is sought under Section 73 of the Town and Country Planning Act to vary the wording of condition 22 of planning permission 21/3148/MOUT for upto 6000sqm of office development, to allow greater flexibility for alternative heating options to be considered in favour of a connection to the District Heating Network for the approved office development.**

**The strategic approach set out within Strategy 40 of the Local Plan is very clear in that new developments with a floor space of at least 1000 sqm will be expected to connect to an existing DHN unless it has been demonstrated that it is unviable to do so. The Science Park is served by the Monkerton District Heating Network and so there is a connection available for the office development and no information has been submitted to demonstrate that the viability of the development would be affected as a result of the network connection.**

**In the absence of this information, the proposal is considered to undermine the strategic approach set out within the Local Plan and that advocated by national planning policy such that officers are unable to support the proposed variation of condition 22 of the 21/3148/MOUT permission. The application is therefore recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

Thank you for consulting Broadclyst Parish Council.

The council are in support of the variation of condition 22 to allow flexibility for alternative heating options to be considered.

### **Technical Consultations**

None

#### Other Representations

1 letter of objection has been received raising concerns about the proposal's conflict with Strategy 40 of the Local Plan.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
21/3148/MOUT	Outline application for up to 6,000 sqm GIA (6,350 sqm GEA) of office development with associated infrastructure (all matters reserved except access)	Approval with conditions	23.03.2023

## **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 5B (Sustainable Transport)

Strategy 9 (Major Development at East Devon's West End)

Strategy 10 (Green Infrastructure in East Devon's West End)

Strategy 11 (Integrated Transport and Infrastructure Provision at East Devon's West End)

Strategy 13 (Development North of Blackhorse/Redhayes)

Strategy 31 (Future Job and Employment Land Provision)

Strategy 37 (Community Safety)

Strategy 38 (Sustainable Design and Construction)

Strategy 40 (Decentralised Energy Networks)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

TC12 (Aerodrome Safeguarded Areas and Public Safety Zones)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Government Planning Documents

National Planning Practice Guidance

## Site Location and Description

The site comprises a corner plot extending to 1.4Ha situated at Blackhorse on the eastern side of the junction of Tithebarn Way with Honiton Road. The site is situated on a low ridgeline at an altitude of approximately 35m AOD. Beyond the site the ridgeline rises gently to a high point of 45m to the northwest and falls away to the east northeast, east and southeast. The site itself has been previously graded to create a level platform raised by some 2m above existing road level at its south western corner.

The eastern boundary comprises a mature leylandii hedge line which is somewhat overgrown. The northern boundary comprises a native hedge bank in moderate-poor condition. The southern and western boundaries are fenced. There are a few broadleaved trees in the north east corner of the site and a small copse situated just beyond the southeast corner. Otherwise there are no landscape features within the site and land cover comprises rough grassland.

The land to the east comprises a medium sized field with existing housing beyond. To the west, beyond Tithebarn way, is the recently constructed park and change site and Exeter Science Park is situated to the north east. A strategic cycle commuter route runs adjacent to the northern site boundary. Beyond this lies the Tithebarn Green development which has planning approval for sports fields and a pending application for mixed use development.

The A30 runs 150m to the south and M5 700m to the west. Sowton village and conservation area are situated 700m to the south.

The site lies within landscape character type 3B - Lower rolling farmed and settled valley slopes as defined in the East Devon Landscape Character Assessment 2019 but, as indicated above, the immediate landscape context is in a state of flux and heavily influenced by existing road, power and communications infrastructure and existing and planned development.

There is no public access within the site but the western boundary follows the edge of the footway to Tithebarn Way.

Views from the site to the east and west are constrained by landform and/ or vegetation cover but there are extensive views to the south towards the Pebble Bed Heaths and East Devon AONB and more distant views to the northwest to the Blackdown Hills AONB.

There are no landscape or conservation designations within or in close proximity to the site. Sowton Conservation Area is some 700m to the south.

## Planning History:

Outline planning permission was recently granted under planning reference 21/3148/MOUT for up to 6,000 sqm GIA (6,350 sqm GEA) of office development with associated infrastructure (all matters reserved except access). The planning permission was granted subject to a condition (22) which states:

*The development hereby approved shall be connected to the Decentralised Energy Network in the locality. The buildings shall be constructed so that the internal systems for space and water heating are connected to the decentralised energy network prior to their first occupation for their permitted use.*

*(Reason: In the interests of sustainable development in accordance with Strategy 38 (Sustainable Design and Construction) and Strategy 40 (Decentralised Energy Network) of the adopted East Devon Local Plan 2013-2031).*

#### Proposed Development:

Planning permission is sought under Section 73 of the Town and Country Planning Act to vary the wording of condition 22 to allow greater flexibility for alternative heating options to be considered in favour of a connection to the District Heating Network for the approved office development.

The applicant is proposing that the condition is amended to the following:

*The buildings comprised in the development hereby approved shall either be connected to:*

*(a) the Decentralised Energy Network in the locality, with the buildings constructed so that the internal systems for space and water heating are connected to the Decentralised Energy Network; or*

*(b) an alternative heating solution which has a lower carbon footprint than the Decentralised Energy Network details of which shall first be submitted to and approved by the Council prior to their first occupation for their permitted use*

#### Issues and Assessment:

The principle of development for offices has previously been accepted on this site under planning permission 21/3148/MOUT which remains extant and within the timescales for the submission of reserved matters such that no objections can be sustained to the principle of development. The proposal remains the same as that previously approved which has already been assessed in terms of the impact on the character and appearance of the area, the residential amenities of the occupiers of surrounding properties, highway safety and parking, archaeology, the ecological and arboricultural impacts and drainage and surface water run-off and considered to be acceptable in these respects.

As such the only issue to consider in the determination of this application is in terms of whether the proposal to allow the approved office development to connect to an alternative means of heating as an alternative to the District Heating Network has been robustly justified.

## **ANALYSIS**

### **National Planning Policy:**

The golden thread running through the National Planning Policy Framework is sustainable development. Paragraph 7 states 'the purpose of the planning system is to contribute to the achievement of sustainable development'. The environmental objective includes mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 155 of the NPPF states to increase the use and supply of renewable and low carbon energy and heat, plans should

*(c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

Paragraph 157 of the NPPF states that in determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.*

### **Broadclyst Neighbourhood Plan:**

Since the planning permission for offices was granted, the Broadclyst Neighbourhood Plan has been to referendum and therefore now carries significant weight. The support for this application from Broadclyst Parish Council is noted however there are no policies within the NP which expressly relate to proposals connecting to existing district heating networks in the Science Park. There is however a general thrust within the NP for new developments to contribute towards moving towards a low carbon future in mitigating and adapting to climate change.

*Policy DC1- Energy Efficient New Buildings of the NP states that all new development that ensures a "fabric first"\* approach to reducing carbon emissions will be supported.*

*\*Fabric first' means 'maximising the performance of the components and materials that make up the building fabric before considering the use of mechanical or electrical building services systems. Consideration should also be given to modern methods of construction'.*

## East Devon Local Plan:

Strategy 40- Decentralised Energy Networks of the Local Plan is clear that new development of 1,000 sqm or more should, where viable, connect to any existing or proposed Decentralised Energy Network in the locality to bring forward low and zero carbon energy supply and distribution.

Members will be aware that the wider Science Park is connected to the Monkerton district heating network, which provides it with heating and hot water and therefore an existing network is available for connection for the approved office development. The clear strategic approach for major development in the Science Park within the Local Plan is to ensure that new developments connect to the DCN as set out within paragraph 17.25 of the pre-amble to the policy. Officers consider that no robust evidence or information has been provided with the application to demonstrate that a DNO connection is not available (it is) or that it would be unviable to connect the offices to the existing district heating network. Therefore the proposal is considered to be in conflict with Strategy 40 of the Local Plan.

The applicant's request to vary condition 22 to allow for an alternative heating solution with a lower carbon footprint than the DCN is noted, however it is understood that EDDC are currently leading on a project which is shortly to move to procurement, in order to provide an interconnector pipe from existing and forthcoming consented Energy from waste plants at Hill Barton Business Park. This project would effectively decarbonise both the Cranbrook and Monkerton networks and thus further improve the carbon footprint of the DCN.

The applicant has made reference to a planning permission 22/0856/MRES for a hotel on the Science Park which was approved by the Council without the need to connect to the District Heating Network. Whilst each planning application must be determined on its own merits, Members are advised that the hotel approval is different to the Section 73 application being considered. It is understood that the Section 106 agreement for the Science Park required reasonable endeavours to be used to connect to a DH network but that it did facilitate alternative provision as a departure from Strategy 40 of the Local Plan.

In the case of the approved hotel, Members should note that it was designed to fulfil the developers very clear and specific objective of being the UK's first net zero carbon hotel and their desire to do something different architecturally to that which we have seen before. This manifested itself in a scheme which put together a very specific package of design and technical details (e.g. the building has a large amount of vertical PV cladding) and which ultimately led to the Council accepting that connection to the DH network would not be something to insist upon in this particular instance - however that conclusion was only reached after challenging the applicants on this point and asking for further robust justification.

Officers have not been advised of an end user for the office development and having only approved an outline planning permission on the site, have not been presented with any formal design approach which might be considered to be ground breaking in any way so as to justify not connecting to the network. The hotel approval at the Science Park is therefore very different in terms of the detail of the scheme and what



it would deliver as an alternative to the District Heating Network connection to this Section 73 application.

## **CONCLUSION:**

The strategic approach set out within Strategy 40 of the Local Plan is very clear in that new developments with a floor space of at least 1000 sqm will be expected to connect to an existing DHN unless it has been demonstrated that it is unviable to do so. The Science Park is served by the Monkerton District Heating Network and so there is a connection available for the office development and no information has been submitted to demonstrate that the viability of the development would be affected as a result of the network connection. In the absence of this information, the proposal is considered to undermine the strategic approach set out within the Local Plan such that officers are unable to support the proposed variation of condition 22 of the 21/3148/MOUT permission. The application is therefore recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reason:

1. In the opinion of the Local Planning Authority, insufficient evidence has been submitted to demonstrate that connection to the district heating network in the locality of the application site would render the development unviable. The application is therefore considered to be contrary to the provisions of paragraph 157 of the National Planning Policy Framework and Strategy 40- Decentralised Energy Networks of the East Devon Local Plan (2013-2031).

### List of Background Papers

Application file, consultations and policy documents referred to in the report.

## **Statement on Human Rights and Equalities Issues:**

### Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

### Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations

between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.