

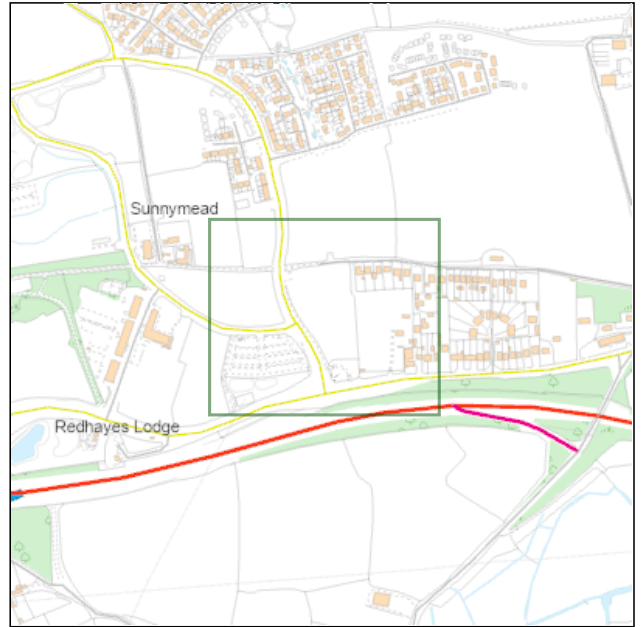
Ward Broadclyst

Reference 23/2242/VAR

Applicant Mr Paul Withers (Eagle One MIII Ltd)

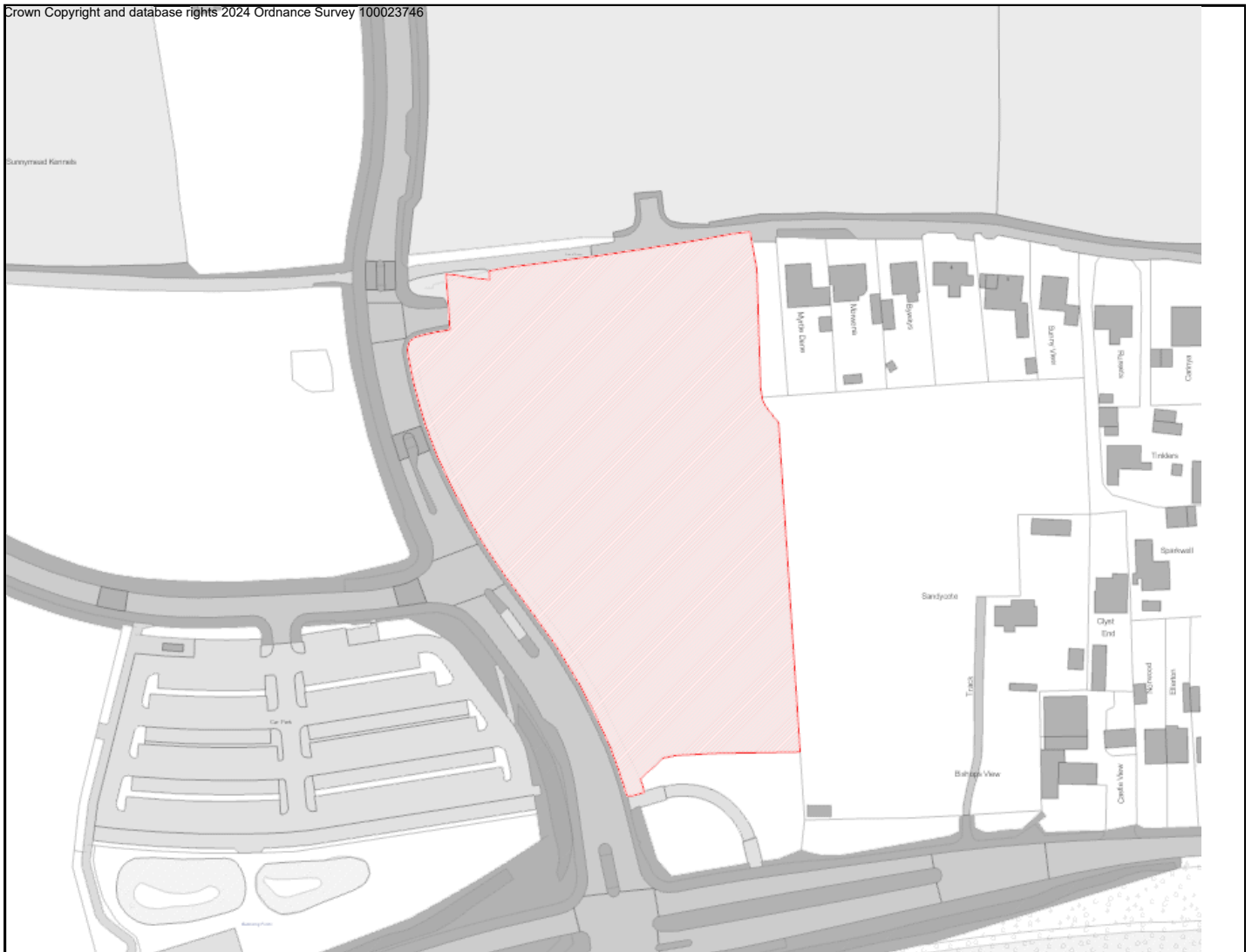
Location Land To The East Of Anning Road/ Tithebarn Way Redhayes Exeter

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

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		Committee Date: 27.02.2024
Broadclyst (Broadclyst)	23/2242/VAR	Target Date: 19.01.2024
Applicant:	Mr Paul Withers (Eagle One MMill Ltd)	
Location:	Land To The East Of Anning Road/ Tithebarn Way Redhayes	
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

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. This application differs slightly from a planning application 23/0976/VAR which was refused by the Planning Committee in line with officer recommendation on the basis that 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 differs from that previously refused as it proposes a change to the wording of condition 22 to allow the development to connect to the DHN or for an alternative heating solution which has a lower carbon footprint than the Decentralised Energy Network to be provided.

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. Strategy 40 does not allow flexibility for alternative lower carbon heating solutions to be considered because the DHN relies on users to connect to make it viable and the more developments that connect the more viable the system becomes and further reductions in carbon achievable. The council requires the connection to the district heating to ensure that the long-term viability of the system is not undermined.

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.

At the Full Council meeting on 4th December 2023. Council OBJECTED to the Variation of Condition 22.

The Broadclyst NP supports this objection through the following policies

DC1

DC5

DC6

The Broadclyst Parish Council Planning Committee reconsidered its previous response to application ref 23/2242/VAR at its meeting last night following further explanation of the proposal and alternative systems.

It was resolved (majority vote, 1 abstention) that the Committee supports the removal of the condition that required the development to connect to the Decentralised Energy Network (DEN), thereby facilitating connection to alternative(s) which are at least as sustainable as the DEN.

Other Representations

None received at the time of writing this report.

PLANNING HISTORY

Reference	Description	Decision	Date
23/0976/VAR	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.	Refused	31.08.2023
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)

Broadclyst Neighbourhood Plan

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).

Planning permission was refused in August 2023 by Planning Committee for a 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. The application was refused for the following reason:

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).

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 (at the point at which it is connected to the Hill Barton Energy Plant) 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 and accords with the development plan.

ANALYSIS

National Planning Policy:

The golden thread running through the National Planning Policy Framework, 2023 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 160 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 162 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 11 - Integrated Transport and Infrastructure Provision at East Devon's West End of the Local Plan states that Coordinated infrastructure provision will be required to cover:

1. Low carbon heat and power supply;

Strategy 13 - Development North of Blackhorse/Redhayes of the Local Plan states:

The scheme will comprise of:

4. Infrastructure: a) Energy Infrastructure - to include a heat and energy network to achieve low and zero carbon development.

Strategy 40 - Decentralised Energy Networks of the Local Plan states that Decentralised Energy Networks will be developed and brought forward. New development (either new build or conversion) with a floor space of at least 1,000m² or comprising ten or more dwellings 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.

Assessment:

District Energy Networks enable the use of large-scale heat and/or electricity generation technologies to supply a number of nearby homes and businesses. Even when using natural gas, Combined Heat and Power (CHP) systems can provide significant carbon emissions reduction. Heat networks are vital to making net zero a reality in the UK and in high density areas, they are often the lowest cost, low carbon heating option. The Committee on Climate Change (CCC) suggest that 20% of heating will need to come from district heating by 2050 if climate targets are to be met.

District energy systems rely on high numbers of users to make them viable, so it is essential that, where new development is happening within reach of an existing or potential heat network, that new users connect to the system and provide infrastructure to easily enable subsequent future development to also connect to the network.

East Devon District Council has two district heating networks, one serving Cranbrook and one serving the West End and Monkerton in Exeter. The development of the district heating networks is part of EDDC's strategy to deliver large scale zero carbon development to achieve carbon neutrality by 2040. The system at present is operated by the energy centres which are currently connected to the national gas main. It was always expected that the system would support decarbonisation. Furthermore, EDDC has adopted a Local Development Order for the West End and Cranbrook to encourage and facilitate the implementation of district heating network.

For major developments over 1000m² or 10 dwellings, a connection to a District Heat Network is required under Strategy 40 of the Adopted Local Plan and Strategy's 11 and 13 require the inclusion of heat and energy networks as part of the development. Additionally, the NPPF (2023), requires development to comply with local plan strategies relating to decentralised energy supply.

Strategy 40 is clear that developments are required to connect where viable, and across the West End and Cranbrook, thousands of homes and commercial buildings have connected to the system. In cases where it is not viable, it expected that

development must demonstrate why a connection is not viable as per the requirements in Strategy 40. Strategy 40 does not include any other exceptions other than viability even if an alternative solution results in lower carbon. The reason for this is that the system relies on users to connect to make the systems viable and the more developments that connect the more viable the system becomes and further reductions in carbon achievable. The council requires the connection to the district heating to ensure that the long-term viability of the system is not undermined.

In cases whereby the council has agreed for a development not to connect, the applicants have provided viability assessments/information to justify the lack of connection. In a number of these cases, the applicant had prior discussion with EON to establish whether a connection was viable or not.

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 the request is not supported by any viability assessment or information as required by Strategy 40 of the Local Plan to justify the lack of connection. No information has been provided by the applicant of discussions with EON to establish whether a connection was viable or not. Strategy 40 does not allow flexibility for alternative lower carbon heating solutions to be considered because the DHN relies on users to connect to make it viable and the more developments that connect the more viable the system becomes and further reductions in carbon achievable. The council requires the connection to the district heating to ensure that the long-term viability of the system is not undermined.

As such officers remain of the view that proposal would be contrary to the provisions of paragraph 162 of the National Planning Policy Framework and Strategy 40- Decentralised Energy Networks of the East Devon Local Plan (2013-2031).

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.

This revised application does not overcome the reasons for refusal of planning application 23/0976/VAR and in the absence of a clear demonstration that it would not be viable to connect to the DHN, the proposal would undermine the strategic approach set out within the Local Plan to ensure that the long-term viability of the DHN is not undermined 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 reasons:

1. 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 162 of the National Planning Policy Framework, 2023 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 Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, 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.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality 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.