

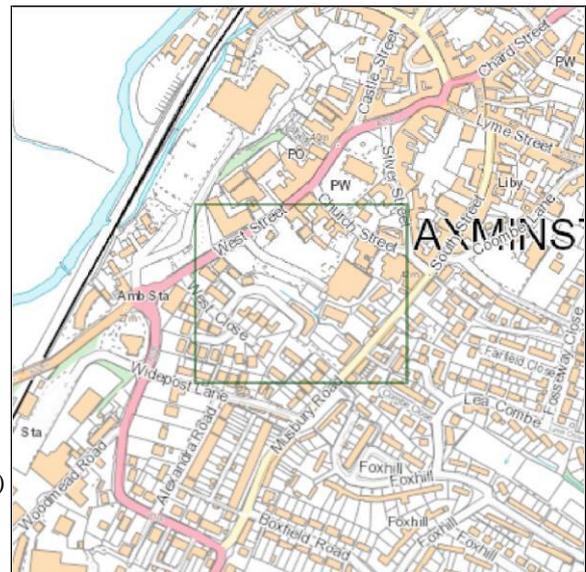
**Ward** Axminster

**Reference** 18/1681/MOUT

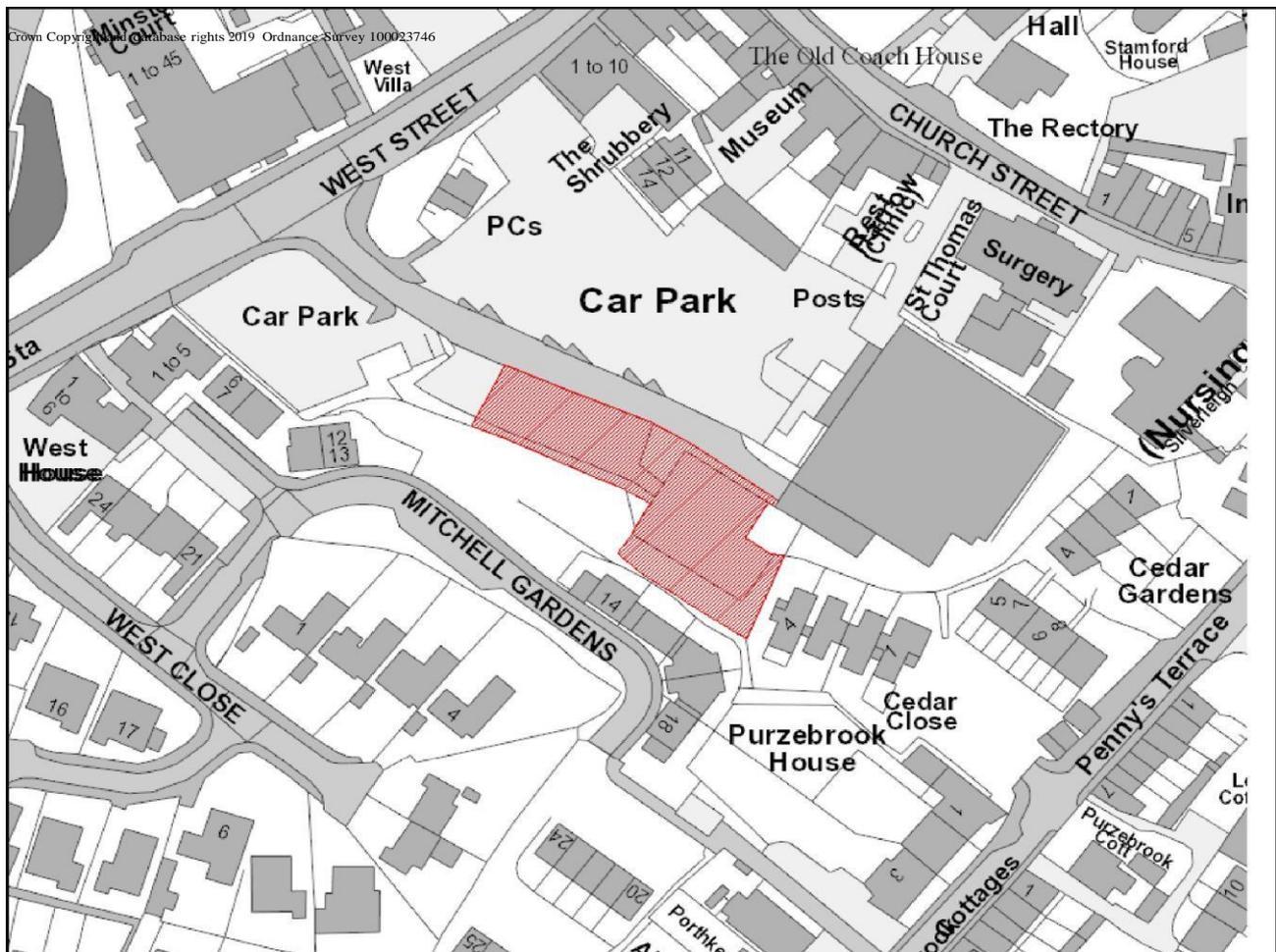
**Applicant** Axminster View Ltd

**Location** Land South East Of West Street Car Park West Street Axminster

**Proposal** Outline application for the erection of 10no. dwellings and associated access, parking and bin cycle store (matter of landscaping reserved)



**RECOMMENDATION:** Approval with conditions subject to a legal agreement securing an overage clause for affordable housing.



		<b>Committee Date: 9<sup>th</sup> July 2019</b>
<b>Axminster (Axminster)</b>	<b>18/1681/MOUT</b>	<b>Target Date: 21.02.2019</b>
<b>Applicant:</b>	<b>Axminster View Ltd</b>	
<b>Location:</b>	<b>Land South East Of West Street Car Park West Street</b>	
<b>Proposal:</b>	<b>Outline application for the erection of 10no. dwellings and associated access, parking and bin cycle store (matter of landscaping reserved)</b>	

**RECOMMENDATION: Approval with conditions subject to a legal agreement securing an overage clause for affordable housing.**

#### **EXECUTIVE SUMMARY**

**This application is before Members of the Development Management Committee as the officer recommendation differs from the view of the Town Council and a Ward Member.**

**The proposal seeks outline planning consent for the creation of 10 dwellings and associated car parking and storage on land adjacent to the co-op supermarket in Axminster.**

**The development can be accommodated without harm to the overall character of the built form in this locality and would provide towards the supply of housing within the district. Previously planning permission had been refused for a similar development due to the conflict of traffic movements between the proposed parking of the site and lack of a contribution towards off site affordable housing.**

**This latest proposal has successfully overcome the two reasons for refusal under the previous planning application with an amended access point and viability information providing evidence that an affordable housing contribution would render the proposal unviable. Furthermore, the layout now proposed is similar to a previously approved 2003 planning application on the site.**

**Taking all of the above into account the proposal is considered acceptable and therefore a recommendation of approval is made subject to the applicant entering into a legal agreement to secure overage towards affordable housing.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Axminster Ward – Cllr A Moulding**

It appears to me that there is a considerable amount of additional information required regarding highway works, access, safety, trees and affordable housing.

I am not prepared to make any recommendation until these matters are resolved.

Further comments:

I agree with the recommendation.

#### **Axminster Ward – Cllr S Jackson**

I cannot support this applications for the following reasons.

1. If viability issues for delivery of the minimum required affordable housing is already known then I do not feel it is appropriate to develop this site to the proposed extent. Instead of 10 properties why not build 8?

2. It is my view that family dwellings are inappropriate for this particular site for several reasons. Firstly the development is situated opposite a carpark and along side the carpark access road. Family properties are likely to be occupied by young children who lack road sense and can easily run out unexpectedly, particularly as they may not perceive this as a "road" in the traditional sense. Equally articulated lorries have incredibly limited visibility and when turning may not see a child in time. In addition the nearest playing field/recreation areas are at Foxhill and Jubilee field. Both would require children to cross several roads. It's worth noting that the play park at the S106 Jubilee Field is currently out of action due to a legal dispute. It is unknown as to when this will be returned to proper use. It is therefore likely that children will end up playing in the EDDC carpark which not only is dangerous but could leave cars at risk of damage. A more appropriate use of this site would be to build properties appealing to an older group of residents who would surely appreciate the plots proximity to the supermarket, the medical practice, bus stop and train station.

#### **Axminster Town Council**

THE APPLICANTS HAVE IGNORED THE TOWN COUNCIL'S PREVIOUS COMMENT THAT THE MAIN ROUTE INTO THE CAR PARK IS PRIVATELY OWNED AND DOES NOT FORM PART OF WEST STREET BUT IS STILL SO MARKED ON THE PLANS.

AXMINSTER TOWN COUNCIL OPPOSES THIS APPLICATION.

LOCAL KNOWLEDGE OF DELIVERY VEHICLE MOVEMENTS DOES NOT REFLECT THE OBSERVATIONS MADE IN THE MARCH 2018 TRANSPORT

STATEMENT. IT IS FELT THAT FAMILY HOUSING IS NOT APPROPRIATE FOR THIS SITE GIVEN ITS LOCATION WITHIN A CAR PARK AS YOUNG CHILDREN WOULD BE EXPOSED TO UNNECESSARY RISKS BY VIRTUE OF THE PROXIMITY OF THE TRAFFIC. A BETTER STYLE WOULD BE THAT USED IN COOMBEFIELD LANE OPPOSITE THE CAR PARK THERE WHICH IS AIMED AT AN OLDER AGE COHORT WITH LOWER CAR OWNERSHIP AND MORE LIKELY TO APPRECIATE THE PROXIMITY TO THE TOWN CENTRE. IN ADDITION SUCH HOUSING IS LOWER IN HEIGHT.

THE LACK OF ANY OBVIOUS CONTINUOUS PAVEMENT PROVISION FROM WEST STREET TO THE DWELLINGS TO SEPARATE PEDESTRIANS FROM MOVING VEHICLES IS REGRETTABLE.

#### AMENDED PLANS

Axminster Town Council has the following objections to this application:

- a. Lack of provision of a cycle store.
- b. Inadequate access for vehicles servicing the bin store and possible problems in removing the bins from the store as a result of obstruction by the doors.
- c. Inadequate access to the site for emergency vehicles.
- d. The apparent existence of what will be 'orphan' land plots to the side and rear of the site.

#### **Technical Consultations**

##### EDDC Trees

I have concerns over this development on arboricultural grounds

- There is no tree report of trees on site accurately platted - there is a mature protected Oak on the boundary of the site, and other trees on the edge of the site
- To allow for the future growth of the oak tree and reduced future pressure on its removal plots 3-5 could be removed for an open space

Further comments:

I have no objection in principle to the amended arboricultural report submitted by Advance Arb, I do have a concern that the replacement trees are being planted off site and there is no legal agreement produced to say this is acceptable, my concern would be if we could enforce this if it was not carried out

##### Housing Strategy Officer Melissa Wall

This application is for the development of 10 houses in central Axminster. Under NPPF 10 dwellings is considered a major development and therefore on-site affordable housing is required. Under strategy 34, 25% (2.5 units) should be provided as affordable housing, with 2 provided on-site and 0.5 as a commuted sum. The commuted sum for 0.5 amounts to £5,779.5. In line with strategy 34 the tenure split should be 70/30 in favour of rented. As there are only 2 to be provided on site to be policy compliant 1 unit should be for rent and 1 for shared ownership or similar route

into home ownership. However we recognise that it may be problematic finding a registered provider to take on only 2 units in a small development and with a split tenure. Therefore it may be more appropriate to have either 2 units for rent or 2 units for shared ownership. Given that the greatest need is for rent we would prefer to see 2 rented units although the same issue of only 2 units may still apply. We will only know this by entering discussions with registered providers. If after discussions with RPs there is no-one willing to take the units then we would accept a commuted sum and this would amount to £115,590.

The applicant has submitted a viability assessment claiming that the site cannot support the provision of affordable housing. The Council will appoint an external consultant to review the viability assessment. If it is found that the site cannot support the provision of affordable housing either on-site provision or a commuted sum then an overage clause will be sought in respect of future profits, where levels of affordable housing fall below policy targets.

Further comments:

No further comments to make on this application.

#### Conservation

We do not wish to comment.

#### DCC Flood Risk Management Team

Recommendation:

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

It is noted within the Design and Access Statement submitted for this planning application that details of the proposed surface water drainage system will be submitted as part of any planning application. However, these details cannot be found on the Local Planning Authority's website.

#### County Highway Authority

Observations:

This application resides on the Q5581, which is highway not maintained at public expense. This adjoins the junction of the A358, West Street. The Q5581 also provides the access for both customers and deliveries to the Co-op supermarket opposite.

A similar application for this site was submitted in 2016, planning application number 16/1479/MOUT. This application was refused in 2017. One of the reasons that the application was refused was due to highway concerns of the proximity of the proposed developments access to the HGV loading bay of the Co-op, particular as the HGV's manoeuvre and reverse in the space immediately upon exiting/entering the development access. Manoeuvring HGV's is not a hazard that residents and visitors alike will expect in the vicinity of a new housing development site.

This new application does include a Transport Statement with recorded evidence of a HGV visiting Co-op's loading bay. However the highway authority is still not satisfied from this content that the collision risk of vehicles exiting and accessing the housing development and HGV's manoeuvring has been addressed. The transport statement states that some HGV's do not fully use the loading bay space and overhang due to the unloading space required, this brings the HGV's even further to the housing developments access.

Solid mitigation methods need to be provided in order to separate the proximity of the HGV manoeuvring with the developments access this is to ensure that built-in safety issues are not present on this development from day one, in accordance with our most up to date best practice guidance.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access arrangements contrary to paragraph 109 of the National Planning Policy Framework.

Further comments 10/06/2019:

Upon receiving a re-consultation and the revised plan ASP.18.088.001 received on the 21st May 2019, the County Highway Authority (CHA) is now satisfied that the two areas of interaction namely the HGV movements at the Co-op and the residential access have been appropriately separated and therefore the collision risk satisfactorily reduced. Therefore the CHA is no longer wish to uphold an objection to this planning application.

Recommendation:

MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Prior to 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) daily hours of construction;  
(c) any road closure;

- (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 advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the 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 delivery vehicles and construction traffic will load or 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 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.

### Environmental Health

I have considered this application and recommend that the following condition is attached to any permission granted:

A Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

### Police Architectural Liaison Officer - Kris Calderhead

Based on the indicative plan and other information supplied, whilst we do not object to the application, I have some concerns and queries for consideration.

It is disappointing that designing out crime and disorder and crime prevention per se, is not referenced in the Design and Access Statement.

### Surveillance

Criminal damage to vehicles and vehicles crime is a slight issue in the town. The current design does not enable owners to park close to their homes and therefore they cannot maintain passive surveillance of their vehicle. If the design cannot be altered then installing non-obscured windows in active rooms on the elevations of plots 5 & 6 and 8 & 10 which overlook parking spaces, will improve passive surveillance and increase the chances of potential offenders being detected.

As well as limiting surveillance opportunities, the blank gable end of plot 1 is immediately adjacent to public spaces. This can increase the likelihood of graffiti, loitering, ball games etc. Installing at least one non-obscured window above ground floor level on this plot will offer additional surveillance over the public area and reduce potential ASB.

In order to protect the gable end of plot 8 (and plot 1) and clearly distinguish between public and private space, consideration should be given to providing a suitably robust 1m buffer zone if space permits.

### Border Treatment

It appears that some defensible space has been included at the front of plots. This should be complemented and reinforced with appropriate border treatments i.e. low level barrier / hedges to the front and robust boundaries to the side and rear of plots i.e. 1.8m fencing/walls. 1.8m close board timber fencing would be appropriate to divide rear gardens. This will aid in the prevention of unauthorised access to the rear of properties which can increase the likelihood of burglary.

I am unsure as to how access to the rear of plots 1-8 will be incorporated. Access to plot 1, 5, 6, 7 & 8 should be straightforward to achieve however, what should be avoided is an open-ended path running along the rear of plots 1-8. Such paths have proven to generate crime.

All gates that lead to rear gardens must be robustly constructed, at the same height as the fencing wall (9min 1.8m) and be capable of being locked from both sides. Such gates must be located on or as near to the front of the building line as possible.

### External Bike Store

Where bicycle storage is provided in a robust shed, it is recommended that the minimum requirements for the shed construction and security are as follows:

- 38x50mm (min) planed timber frame.
- Floor and roof construction from 11mm boards (min).
- 10x125mm (min) Tongue and Grooved board.
- No window to be present.
- Dorr hinges, hasp and staple to be coach-bolted through the shed structure.
- 'Sold Secure' Silver or LPS 1654 Issue 1:2013 SR1 standard padlock to be used.
- Shall be securely fixed to a suitable substrate foundation.
- The bicycle security anchor shall also be certified to 'Sold Secure' Silver Standard or LPS 1175 Issue 7.2 \*2014) SR1 and securely fixed to the concrete foundation in accordance with the manufactures' specifications.

- Proprietary wall-mounted anchoring systems certified to Sold Secure Silver standard and installed according to the manufactures' s specification are acceptable.
- Stores should be lit using vandal resistant, light fittings and energy efficient lamps.

### Physical Protection

All external doors and accessible windows shall comply with the requirements of Approved Document Q (ADQ0 of the Building Regulations and Secured by Design (SBD) standards as set out in Secured by Design Homes 2016.

### Contaminated Land Officer

I have assessed the application and due to previous potentially contaminative uses, I recommend the following phased planning condition:

Unless otherwise agreed by the Local Planning Authority, development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

Human health,  
 Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,  
 Adjoining land,  
 Groundwaters and surface waters,  
 Ecological systems,  
 Archeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

## 2. Submission of Remediation Scheme

Where identified as necessary as a result of the findings of the investigation above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted for approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development (other than any part of the development required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and will be subject to the approval in writing of the Local Planning Authority.

## 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 above and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 2. This must be subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

## Other Representations

To date there have been two letters of objection and one letter of representation received;

### Objections

- Disruption to life while this construction was undertaken
- Other Brownfield sites where these houses could be situated.
- Loss of light
- Overlooking into Mitchell gardens

- Need to account for wildlife and loss of trees
- Increased road traffic
- Conflict of residential use and traffic using parking and co-op deliveries.
- Would develop on a culvert.

#### Representation

- Advise to place bird nest boxes.
- Any trees lost should be replaced as part of GI.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
03/P0623	Erection Of One Block Of 3 Town Houses & 6 Flats & One Block Of 12 Flats, Parking & Amenity Space	Approved	01.11.2004
16/1479/MOUT	Outline application for the erection of 10no. dwellings and associated access, parking and bin cycle store (matter of landscaping reserved)	Refused	18.04.2017

### **POLICIES**

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

D1 (Design and Local Distinctiveness)

TC2 (Accessibility of New Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 20 (Development at Axminster)

Strategy 34 (District Wide Affordable Housing Provision Targets)

TC9 (Parking Provision in New Development)

EN5 (Wildlife Habitats and Features)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

#### National Guidance

NPPF (National Planning Policy Framework 2019)  
NPPG (National Planning Policy Guidance)

### **Site Location and Description**

The proposal takes place on the site of an existing private car parking area within the settlement of Axminster. This is adjacent to a public car park and the associated parking and loading bay of a nearby supermarket. To the immediate south of the application site, and at a lower level, is the recent construction of a residential development which has recently completed.

### **Proposed Development**

The proposal seeks planning consent for the creation of 10 dwellings on land adjacent to the existing car parking area, adjacent to West Street, Axminster. The planning application is made in outline with all reserved matters to be considered except for landscaping.

The development would consist of three blocks. Units 1 to 6 are a terrace row which fronts on to the car park. Units 7 and 8 are semi-detached properties situated adjacent to the supermarket building. Units 9 and 10 are situated further within the plot and front onto the proposed car park, which would serve the properties.

The dwellings themselves are three storey properties with bedrooms in the roof. A bin storage and collection area would be situated within a corner of the proposed car parking area.

The application seeks to address the two reasons for refusal on the previous application related to the unsuitable access and conflict with the loading area to Co-op and the lack of affordable housing contribution.

### **ANALYSIS**

Through the processing of this planning application additional and amended plans have been submitted. The following considerations are made in accordance with these latest sets of plans.

The main issues concerning this proposal are;

- The design and impact on the character of the area
- The impact upon the amenity of occupiers of adjacent properties
- The impact on highway safety
- Affordable housing requirements
- The impact on trees
- The provision of foul and surface water treatment; and
- any other issues.

### The design and impact on the character of the area

The proposal would be situated adjacent to the public parking area and would be directly visible from immediate vantage points with no screening in place.

Due weight is given to the surrounding urban grain of development, including the recently constructed dwellings immediately to the south of the application site which has established a strong residential presence. Generally, the area is of a high density incorporating a mix of uses and activities providing a vitality to the area. The incorporation of further residential dwellings in the locality could further contribute to the vitality of this area and would make efficient use of brownfield land.

In terms of scale, taking the recently constructed dwellings located to the south into account the proposal would be comparatively more prominent being situated on a higher ground level, resulting in a development which would impact on surrounding views.

In terms of the visual appearance a three storey townhouse style is proposed with an emphasis on vertical articulation. However, this design is compatible with other buildings within the town centre which also clearly focus on a vertical buildings, with small footprints.

The massing of the development, i.e. the combined effect of the arrangement, volume and shape of the group of buildings would not be out of character of the surrounding development including the recent development to the south.

On balance the proposal demonstrates an understanding of its context and meets the aim to raise standards of design more generally in the area. Accordingly the proposal complies with policy D1 which aims to maintain the local distinctiveness and character.

### The impact upon the amenity of occupiers of adjacent properties

The potential for overlooking occurs from the relationship with the newly constructed residential development to the immediate south and east of this application site. However, the main line of proposed town houses are positioned adjacent to the gap in adjacent housing to the south, accordingly units 1 to 6 do not harm the amenity of occupiers. Proposed units 9-10 would be 'side on' in relation to the development to the south with no openings resulting in overlooking. The windows of the adjacent property, to the east of the application site known as 4 Cedar Close, were noted.

The close proximity between this neighbouring property and the application site makes for an uncomfortable relationship with proposed plots 9-10, however due to the position of windows on 4 Cedar Close a harmful level of overlooking would be avoided.

A refuse area has been shown and it is not unusual for such refuse areas to be positioned separate to the dwellings and occupiers which would use it. Therefore adequate provision has been made.

### The impact on highway safety

The National Planning Policy Framework (NPPF) states that decision should take account of whether safe and suitable access to the site can be achieved for all people. It also states that development should only be prevented or refused on transport grounds where the residual impacts of development are severe.

The proposed footprint of the dwellings has been moved back slightly away from the highway in order to allow sufficient space for pedestrians to safely enter and exit the properties. The proposal would allow for suitable levels of pedestrian safety in this regard.

The loading bay to the Co-op store is close to the proposed access (which is indicated by the layout) to the site and it would appear that delivery vehicles, some of which will be articulated lorries, reverse into the loading bay to make their deliveries. Under the original submission this access point would have been placed in direct conflict with the daily use of this loading bay.

Amended plans have been received which have moved the position of the proposed car parking access further way from the loading bay, in the approximate position of the access previously approved under the 2003 planning consent. As a consequence of this shift the layout of the dwellings - again akin to the 2003 consent.

The Highway Authority, in response to this amended plan, have withdrawn their original objection to the close proximity of the proposed access relative to the load bay entrance. Accordingly the access to the car park area of the development is not considered to result in severe harm to highway safety.

Parking - An off road parking area has been shown with one parking space per dwelling provided. Considering the town centre locality this provision is considered adequate. Any unauthorised parking resulting from the use of the dwellings would be subject to separate enforcement. The Highway Authority have not objected to the loss of existing car parking spaces which would occur as a result of the development.

### Affordable Housing Requirements and viability

Paragraphs 013-017, 019-023 and 031 have been added to the Planning Practice Guidance (PPG) section on planning obligations. These paragraphs reiterate that national planning policy defines the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development that those restrictions do not apply to development on Rural Exception Sites and those circumstances where the vacant building credit should be offered to developers.

The NPPF outlines that LPAs may choose to apply a lower threshold of 5-units or less to development in designated rural areas being areas as described under Section 157 of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty.

The PPG states that in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development.

Axminster is within a rural area in accordance with the Housing Act for the purposes of deciding which tariff is applicable. As the proposal seeks more than 5 units there is a requirement for an affordable housing contribution.

In this instance the applicant has claimed that the development would not be viable were a monetary contribution be required. As a result a viability assessment has been produced by the applicant and this has been sent for analysis by the valuation team in Plymouth.

The viability appraisal initially appraised a scheme of 100% market dwellings with full CIL contributions but no other section 106 contributions. The team in Plymouth found that the application scheme as 100% open market dwellings produces a residual land valuation of £102,000 which is slightly in excess of what we consider to be the minimum level a reasonable landowner would sell the site for considering all other options open to them.

This residual valuation is only marginally in excess of the benchmark level of £100,000 and therefore it can be concluded that this site would be unable to provide affordable housing on-site and no off-site s106 contributions beyond the £91,000 CIL contribution.

Having reviewed the information provided to East Devon District Council the team in Plymouth are in agreement with the conclusion that this site could not viably provide on-site affordable housing or off-site contributions beyond the CIL.

However, in accordance with Strategy 34 of the local plan, overage should be secured to ensure that a contribution is paid towards affordable housing if the development makes more profit than forecast in the viability appraisal.

#### The provision of foul and surface water treatment

Policy EN22 of the adopted East Devon Local Plan states that surface water in all schemes for 10 homes or more should be managed by sustainable drainage systems, unless demonstrated to be inappropriate. Accordingly the onus is on the applicant to demonstrate that Sustainable Urban Drainage (SuDs) can be achieved or that it would be inappropriate (for example due to site constraints). Either scenario has to be established prior to issuing a consent otherwise there is no guarantee that the criterion of this policy has been met. Further, this policy states that run-off implications of the proposal have been fully considered, adding more weight to this view.

At the time of writing there has not been a formal response from DCC SUDS teams to the latest information. However, as there was not a SUDS team objection to the previous planning application there is enough confidence that at the Committee meeting a verbal update on this position would suffice.

## The impact on trees

It is noted that there is a Protected Tree on the boundary to the south of the proposed dwellings. As no arboricultural assessment was previously made to account for the impact on this, and other trees, the councils arboriculturalist originally raised an objection to the proposal. In response the applicant then submitted a TPP and AMS conducted by Tom Hurley. Upon consultation it would appear that the arb officer then removed this previous objection. However, it was noted that some of the compensatory planting would take place off site and therefore cannot be controlled under this planning application. Notwithstanding that landscaping is a reserved matter, it is noted that the mitigating landscaping in the locations proposed, whilst maybe compensating for the loss of a protected tree would offer little in terms of screening.

It is acknowledged in line with the submitted tree report that the layout of the proposal would result in harm and potential loss of the adjacent Oak Tree. This is not within the ownership of the applicant and therefore lies outside of the application site and cannot be controlled under this application. As it is agreed between parties that this tree is in poor health there can be no objection to its loss. Local Plan policy D3 seeks to avoid the net loss of valued trees with compensatory planting. As previously stated this cannot be achieved under this application. However, any works effecting this protected tree would require a tree application prior to any works taking place. It is likely to be the case that a replacement planting of a tree of similar value would be facilitated under this process, and this should be the correct process to compensate for its loss.

## Other issues

The application site abuts the access road to the public car park and supermarket parking area. This appears to be owned by the Highway Authority, who are obviously aware of the proposal, and would be used as the access point. Accordingly it is not considered a necessity for the red edge of the application site to go to the main road to the east.

A cycle store has not been provided for within the proposal and this issue has been raised by the parish council. Policy TC9 states that at least 1 bicycle parking space should be provided per home. The proposal does not aim to meet this standard and so this weighs against the proposal.

Part of the adjacent car park to the north of the application site lies within a designated conservation area. However, given the separation distance and the fact that the closest part of the conservation area lacks any noteworthy historic fabric the proposal is not considered to affect the conservation area. Further, the conservation officer has not raised any objections to the proposal.

Given that the application site is brownfield land, currently used for car parking and generally devoid of vegetation or suitable habitats the proposal is not considered to result in harm to protected wildlife.

The site is well located within the town centre and despite the location adjoining a car park, a refusal of planning permission on the basis of the location forming a danger to children would not be defensible in this instance.

## **CONCLUSIONS**

The proposal of 10 dwellings would make a contribution towards the supply of housing within the district.

The development can be accommodated without harm in terms of amenity, highway safety, visual impact or loss of character. Although these types of development would usually result in an offsite contributions toward affordable housing, in this instance viability information has been submitted which has demonstrated that such a contribution would render the development unviable. Accordingly the lack of an off-site affordable housing contribution does not weigh against the scheme subject to the securing of an overage clause via a suitable legal agreement.

The proposal adequately addresses the two previous reasons for refusal on the previous application and as such is considered to meet the social, economic and environmental objectives as established within the NPPF and thus achieves sustainable development.

## **RECOMMENDATION**

APPROVE subject to a legal agreement securing an overage clause and subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).
2. Approval of the details of the landscaping of the site (hereinafter called "the reserved matter") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
4. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

5. Prior to 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) daily hours of construction;
  - (c) any road closure;
  - (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 advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the 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 delivery vehicles and construction traffic will load or 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 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) Details of Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements
- (Reason - In the interests of highways safety in accordance with policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031)

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within Schedule 2 Part 1 Classes A or E for the enlargement, improvement or other alterations to the dwellinghouses hereby permitted or for the provision of any curtilage buildings.  
(Reason - To control the potential enlargement of the dwelling units hereby permitted, in the interests of the character and appearance of the area and to protect private amenity, in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031).
7. The development shall be carried out in accordance with protection measures as stated within the 'advanced Arboriculture' Arboricultural Method Statement dated 7th May 2019. (Reason - To ensure that the development has an acceptable impact on trees, in accordance with policy D3 (Trees and Development Sites) of the adopted East Devon Local Plan).
8. The development shall be carried out in accordance with the surface water strategy report, conducted by Innervision Design Ltd, updated May 2019.  
(Reason - To ensure that surface water is managed in a suitable manner, as required under policy EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan).
9. Unless otherwise agreed by the Local Planning Authority, development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until points 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until points 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

Human health,  
Property (existing or proposed) including buildings, crops, livestock, pets,  
woodland and service lines and pipes,  
Adjoining land,  
Groundwaters and surface waters,

Ecological systems,  
Archeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

## 2. Submission of Remediation Scheme

Where identified as necessary as a result of the findings of the investigation above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted for approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development (other than any part of the development required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and will be subject to the approval in writing of the Local Planning Authority.

## 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of point 1 above and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of point 2. This must be subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.

(Reason – To ensure that the potential for contaminated land is taken into account and if necessary mitigated, in accordance with policy EN16 (Contaminated Land) of the adopted East Devon Local Plan).

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

##### Plans relating to this application:

ASP.18.088.100 Rev A : units 1-6 (amended)	Proposed Floor Plans	17.05.19
ASP.18.088.101 Rev A : units 1-6 (amended)	Proposed Floor Plans	17.05.19
ASP.18.088.103 Rev A : units 7- 10 (amended)	Proposed Floor Plans	17.05.19
ASP.18.088.200 Rev A : units 1-6 (amended)	Proposed Elevation	17.05.19
ASP.18.088.201 Rev A : units 1-6 (amended)	Proposed Elevation	17.05.19
ASP.18.088.203 Rev A : units 7- 10 (amended)	Proposed Elevation	17.05.19
ASP.18.088.204 : bin store (amended)	Proposed Elevation	17.05.19
ASP.18.088.300 Rev A : (amended)	Street Scene	17.05.19
ASP.18.088.001 Rev A (amended)	Location Plan	10.05.19

ASP.18.088.002 Existing Site Plan 17.05.19  
(amended)

List of Background Papers

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