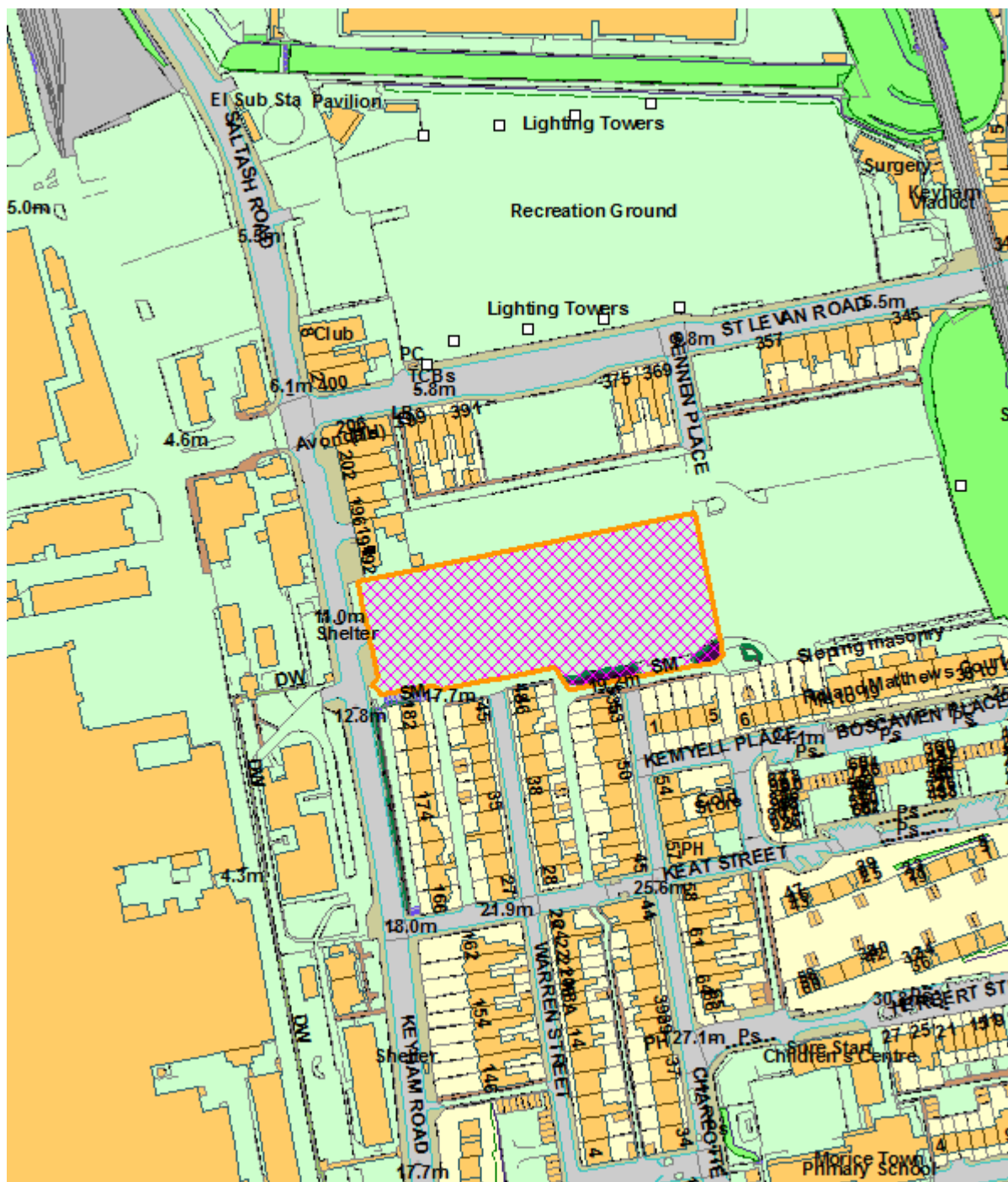


# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	20/02031/S73	<b>Item</b>	<b>02</b>
<b>Date Valid</b>	21.12.2020	<b>Ward</b>	DEVONPORT
<b>Site Address</b>	186 -190 Keyham Road Plymouth PL2 IRD		
<b>Proposal</b>	Variation of Condition 10 (Temporary Use: Reinstatement) of application 16/00477/FUL to allow current B8 use to continue for a further 5 years.		
<b>Applicant</b>	Liam Lynch		
<b>Application Type</b>	Removal or variation of a condition		
<b>Target Date</b>	<b>22.03.2021</b>	<b>Committee Date</b>	<b>11.03.2021</b>
<b>Extended Target Date</b>	<b>N/A</b>		
<b>Decision Category</b>	Departure from Local Plan		
<b>Case Officer</b>	Mr Mike Stone		
<b>Recommendation</b>	Grant Conditionally		



This application has been referred to the Planning Committee as it is a departure from an allocation in the Joint Local Plan.

**I. Description of Site**

The application site is a large, level open area of land, a former gas works, located in the Morice Town Neighbourhood. The area of the site is 7,250 sq. metres (0.725Ha) and since 2016 it has been used as scaffolding storage for contractors working in the dockyard. It is bounded to the south by terraced residential properties and to the west by Keyham Road and Devonport Dockyard. To the north and east of the site are large car parks allocated to dockyard staff. Ground levels rise from north to south so that the houses to the south are set above the floor level of the site. The site is allocated for a medium sized food retail store in the Joint Local Plan (Policy PLY58(I)).

## **2. Proposal Description**

Variation of Condition 10 (Temporary Use: Reinstatement) of application I6/00477/FUL to allow current B8 use to continue for a further 5 years.

## **3. Pre-application enquiry**

There was no pre-application enquiry with this application.

## **4. Relevant planning history**

I6/00477/FUL - Change of use to open storage (B8) - Granted Conditionally with a 5 year temporary consent.

03/01517/FUL - Retrospective application for temporary consent to retain buildings and use of site for letting, sales and maintenance of portable modular buildings - Granted Conditionally.

01/00165/OUT - Outline application to develop land by the erection of a new food store (997sq.m net) and a B1 business unit together with new access and car parking (revised scheme) - Refused, fails sequential test and would have adverse impact on existing centres, prejudicial effect on other Local Plan retail proposals, potentially dangerous right turn provision and vehicle access would have inadequate sight lines.

## **5. Consultation responses**

Local Highway Authority - no in-principle objections. Highway conditions from the original consent, I6/00477/FUL, should be restated.

Public Protection Service - recommend approval with previous conditions reiterated.

Economic Development - on objections.

## **6. Representations**

None received.

## **7. Relevant Policy Framework**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

On 26th March 2019 the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level. This is for the purposes of the Housing Delivery Test and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13th May 2019. This confirmed the Plymouth, South Hams and West Devon's revised joint Housing Delivery Test Measurement as 163% and that the consequences are "None". It confirmed that the revised HDT measurement will take effect upon receipt of the letter, as will any consequences that will apply as a result of the measurement. It also confirmed that that the letter supersedes the HDT measurements for each of the 3 local authority areas (Plymouth City, South Hams District and West Devon Borough) which Government published on 19th February 2019.

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.1 years at end March 2020 (the 2020 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2020 (published 22nd December 2020). The methodology and five year land supply calculations in the Housing Position Statement are based on the relevant changes in the revised National Planning Policy Framework published 19th February 2019 and updates to National Planning Practice Guidance published by the Government in September 2018, subsequently amended by NPPG Housing Supply and Delivery published 22nd July 2019.

As a result of Government policies and guidance regarding lockdown due to Covid 19, the 2020 Housing Survey was delayed by approx. 2 months as site visits could not take place. The 2020 5YLS update is therefore delayed by 2 months and will now be published in September 2020. The impact from Covid 19 is likely to slightly reduce the supply identified for 2020/21 due to 2-3 months of limited/nil construction activity during lockdown. This however would not have the effect to result in a material change to the JLP Authorities 5YLS position, given the substantial 5YLS position at the 2019 monitoring point i.e. 6.4YLS which represents a surplus of 1,977 deliverable dwellings above what is required over the period 2019-2024 to demonstrate a 5YLS.

Additionally, the following planning documents are also material considerations in the determination of the application:

- o Plymouth and South West Devon Joint Local Plan SPD (July 2020).

The Plymouth and South West Devon Supplementary Planning Document (SPD) has been prepared by Plymouth City Council (PCC), South Hams District Council (SHDC) and West Devon Borough Council (WDVC) to amplify and give guidance on the implementation of the policies of the Plymouth and South West Devon Joint Local Plan (JLP). The SPD was formally adopted by all three councils in July 2020.

## **8. Analysis**

1. This application has been considered in the context of the development plan, the Framework and other material policy documents as set out in Section 7.

2. The application turns upon policies PLY58(1) (Site allocations in the south of Plymouth), DEV1 (Protecting health and amenity), DEV2 (Air, water, soil, noise and land), DEV20 (Place shaping and the quality of the built environment) and DEV29 (Specific provisions relating to transport) of the JLP and the National Planning Policy Framework (NPPF) 2018.

3. The primary planning considerations in this case are the principle of development, the impact on the character and appearance of the area, the impact on neighbour amenity and the impact on the highway network.

### **4. Principle of development**

The site is allocated for a medium sized food retail store in the Joint Local Plan, Policy PLY58 (1). The site is large, accessed by a main road and in a high density residential setting. The applicants have stated that they would welcome their site becoming a supermarket but that they have never been approached by any of the supermarket companies, whom they note are generally very proactive in seeking out new business opportunities. They accept that the current use as storage does not make the best use of the site but it does provide a useful, convenient resource for the dockyard and their tenants have a number of contracts for work there.

The applicant's preferred option is for a 5 year consent. A review of the Joint Local Plan is due to be completed by the end of March 2024 and a temporary consent for 3 years would align neatly with

the JLP review. In negotiations, the applicants have said they would be prepared to accept a 3 year consent. This would allow the existing employment use, which is in accord with Policy PLY4 (Protecting and strengthening Devonport Naval Base and Dockyard's strategic role) to continue while also protecting the site for a future, more intensive use, should that come along.

#### **5. Impact on neighbour amenity and the character and appearance of the area**

No changes to the physical appearance of the site are proposed. There are residential properties to the north and south of the site. The current use has operated since 2016 without complaint. The Public Protection Service was consulted and raised no objections. Conditions restricting the heights at which containers can be stacked and the hours of operation from the earlier consent are recommended to protect neighbour amenity.

#### **6. Impact on the highway network**

The Local Highway Authority raised no objections in respect of the original application (16/00477/FUL) and the site has been operating for the purposes of open storage for almost 5 years now with no issues. The highway authority has confirmed it would have no in-principle objections to the current use of the site being extended for a further 5 years as long as the highway related conditions attached to the original consent are restated.

#### **9. Human Rights**

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.

#### **10. Local Finance Considerations**

The Local Planning Authority has assessed that this development will attract an obligation to pay a financial levy under the Community Infrastructure Levy Regulations

#### **11. Planning Obligations**

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

No planning obligations have been sought in respect of this application.

#### **12. Equalities and Diversities**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

#### **13. Conclusions and Reasons for Decision**

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal is acceptable and accords with policies PLY58, DEV1, DEV2, DEV20, and DEV29 national guidance and specifically paragraph 11 of the NPPF which states that development proposals that accord with the development plan should be approved without delay. The application is recommended for approval.

#### **I4. Recommendation**

In respect of the application dated 21.12.2020 it is recommended to Grant Conditionally.

#### **I5. Conditions / Reasons**

The development hereby permitted shall be carried out in accordance with the following approved plans:

##### **1 CONDITION: TEMPORARY USE (REINSTATEMENT)**

The use hereby permitted shall be discontinued after 5 years from the date of this decision notice and the land restored to its former condition in accordance with a scheme of work that shall be submitted to and approved in writing by the Local Planning Authority before any works commence on restoring the site to its former condition.

Reason:

In the opinion of the Local Planning Authority the temporary use to which this permission relates will by the said date have fulfilled its required purpose. This condition is imposed to comply with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019, and the National Planning Policy Framework 2019.

##### **2 CONDITION: MINIMUM CAR PARKING PROVISION**

The operators of the site shall ensure that space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for a minimum of 4 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies DEV20 and DEV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019.

##### **3 CONDITION: LOADING AND UNLOADING PROVISION**

The operators of the site shall ensure that adequate provision shall be made to enable goods vehicles to be loaded and unloaded within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

Reason:

To enable such vehicles to be loaded and unloaded off the public highway so as to avoid:- (i) damage to amenity; (ii) prejudice to public safety and convenience; and (iii) interference with the free flow of traffic on the highway; in accordance with Policy DEV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019.

##### **4 CONDITION: LONG TERM MONITORING AND MAINTENANCE**

The operators of the site shall continue with the monitoring and maintenance scheme to monitor the long-term effectiveness of the approved remediation scheme. Reports that demonstrate the effectiveness of the monitoring and maintenance scheme must be submitted to and agreed in writing by the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure development can be carried out safely without unacceptable risk to workers, neighbours and

other offsite receptors in accordance with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019.

**5 CONDITION: HOURS OF OPERATION**

No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 07.00 hours to 21.00 hours Monday to Friday inclusive; or 07.00 to 19.00 Saturday, Sundays and Bank or Public Holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy DEV2 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019.

**6 CONDITION: STACKING HEIGHT RESTRICTION**

Containers shall not be stacked or deposited to a height exceeding 3 units high.

Reason:

To safeguard the amenities of the area and the appearance of the site in accordance with Policy DEV1 of the Plymouth and South West Devon Joint Local Plan (2014-2034) 2019 and the National Planning Policy Framework 2012.

**INFORMATIVES**

**1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

**2 INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)**

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.