

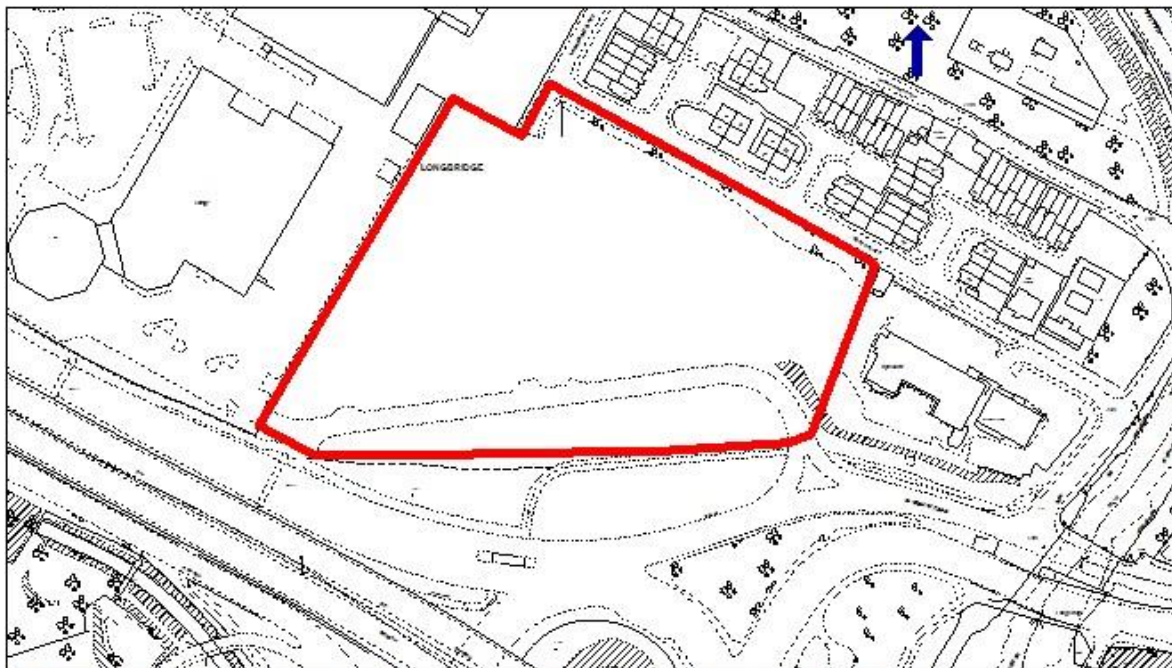
PLANNING APPLICATION REPORT



Application Number	16/01100/FUL	Item	04
Date Valid	07/07/2016	Ward	Moor View

Site Address	LEGACY PLYMOUTH INTERNATIONAL HOTEL, 270 PLYMOUTH ROAD PLYMOUTH		
Proposal	Erection of drive-thru restaurant (Class A3/A5) with access and servicing arrangements, car parking, landscaping and associated works		
Applicant	EOP II PROP CO I S.A.R.L		
Application Type	Full Application		
Target Date	31/10/2016	Committee Date	Planning Committee: 27 October 2016
Decision Category	Major - more than 5 Letters of Representation received		
Case Officer	Ali Wagstaff		
Recommendation	Grant Conditionally		

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1. Description of site

This site forms part of the former Legacy Hotel premises which occupied a site of approximately 2.1 hectares north of the principle junction into Plymouth from the A38 Parkway at Marsh Mills.

The site is 0.6 hectares and covers the perimeter of the wider site on south and west edges. The hotel has now been demolished and the site is vacant with the central section boarded with protective hoarding. Access to the site is via an existing junction which provides a direct route on to the Marsh Mills roundabout. The access road extends along the front of this application site to a small service point to the rear of Vospers car sales garage.

A large area of soft landscaping occupies the front of the site, and contains a number of trees and vegetation. Further grassed areas and planting extend around the remaining boundaries of the site.

The site is bounded by the cleared area of the former hotel and to the west are the large units of Marsh Mills Retail Park. To the north of the site is residential development arranged around a series of parking courts, which are based around Marsh Close. These are principally two storeys and are of a similar dark red brick as the nearby office development.

2. Proposal description

The development comprises the erection of “drive-thru” restaurant (Use Class A3/A5) in the south west corner of the site with an access road running to the east, to the junction of Plymouth Road. It has a second route which extends to the North although no detail is provided of this area.

The building is 2 storeys in height with a floor area of 379 sqm net. The building is clad in grey and red Kingspan wall panels, which are principally red on the ground floor and silver panelling on the upper floors. There is a corner accent detailed with Trekker vertical cladding. The entrance and principle glazed wall is on the south east elevation with powder coated doors and windows. A drive-thru lane wraps the building to the North-West and North-East side and has a bank of 15 car parking spaces to the south and cycle parking for 4 bicycles.

While not the subject matter of this application a second S73 planning application 16/01102/S73, has been submitted for the main part of the former hotel site. The proposal for that application relates to alterations to the previously consented scheme 12/02320/FUL, and provides 4 retail units to the north of the proposed A3/A5 unit with car parking and an A3 unit.

The applicant has confirmed this application for Unit 6 has only been sought as the proposal for an A3/A5 proposal falls outside of the ambit of the original permission and that this proposal forms an integral part of the strategy, to develop a small retail park scheme selling predominantly bulky goods. The applicant is happy to accept a Grampian condition to ensure the two developments are brought forward together. Therefore in determining this application the context of the proposals for the wider site are also considered.

3. Pre-application enquiry

No formal pre-application engagement has taken place on the application. Officers have however discussed how the proposed changes should be submitted, advising that a Section 73 application should deal with all matters except the additional A3/A5 Unit which should be the subject of a separate full application.

4. Relevant planning history

16/01102/S73 - Section 73 application to modify conditions: 2 (plans), 11 (car parking provision), 14 (car parking management), 19 (odour control), 20 (delivery hours), 39 (hot food takeaway), 40 (opening hours) of application 12/02320/FUL to allow re-siting of unit 5 (168 sqm) A3 restaurant/café and to trade between 7am - 11pm – Under consideration.

12/02320/FUL - Full planning application for demolition of the existing hotel and development of a maximum of 7,900 square metres of A1 retail floorspace and a maximum 712 square metres of A3 Restaurant/café floorspace, with access parking, landscaping and associated works. Granted conditionally

99/01123/ADV – Provision of new flag pole and re-siting of existing flag pole – Granted conditionally

94/01044/ADV – Illuminated welcome sign – Granted conditionally

94/00748/ADV – Illuminated welcome sign – Withdrawn

86/01831/FUL – Construction of new entrance/exit road and alterations to car park – Granted conditionally

81/00058/FUL – Erection of 101 bedroomed hotel (amendment to approved plans) – Granted conditionally

79/02608/FUL – Erection of 125 bedroomed hotel including 12 staff bedrooms – Granted conditionally

5. Consultation responses

Economic Development Department – No objection

Natural England – No Objections, however the scheme could benefit from enhanced green infrastructure (GI) provision

Natural Infrastructure Team - The S106 secured as a result of the previous application on the wider site is still required towards greenspace.

Environment Agency (EA) – Initial response advised the application should not be determined until further information has been submitted in respect of compensatory floodplain to demonstrate how floodplain storage will be maintained and ensure that flood risk is not increased.

Final Response- Advised that while the submission of further detail is preferable prior to granting planning permission, the flood risk and flood plain compensation are considered to be appropriately dealt with in this application. This judgement has been made in light of the previous approved scheme, subject to drainage conditions from applications 16/01102/S73 and 12/02320/FUL being placed on this application and wider site detail being secured through Grampian Conditions.

Lead Local Flood Risk Authority – Raise number of concerns with how flood risk and surface water are to be managed within the scheme, identify a number of factors which will require further information, the matters identified are:

- Evidence to demonstrate that the surface water drainage system is designed to the specified standard taking into account the potential for tidelocking. Details of level and condition of the outfall should be assessed.
- The level of ground water on site should be established and attenuation tanks designed to ensure they are not at risk from hydraulic lift.
- Permission to discharge to the proposed drainage system is required to be provided with confirmation of acceptance of the proposed discharge rate.

- An assessment that the system is in suitable condition for the lifetime of the development is required.
- Drawing Ref 4335 – 2900 shows exceedance flows being directed to the car parking area before being directed off the site and into Marsh Close. It should be designed so that discharge is retained on site.
- A maintenance and management schedule for the proposed system should be submitted.
- A Construction Environment Management Plan should be submitted for approval prior to construction.

It has been confirmed that these matters can be controlled by the imposition of two conditions which are in place on the wider site in relation to ‘a scheme for the provision of surface water management’ and ‘details of proposed floodplain compensation’.

Public Protection Services – No objections subject to conditions relating to installation and adequacy of mechanical ventilation system and limitation on opening hours and delivery hours to 7am-11pm subject to a delivery management strategy to limit noise and disturbance.

Public Health - Fast food outlets are known to offer food that is traditionally high in fats, salt, sugar and carbohydrates. These types of foods do not promote healthy eating, Plymouth Plan seeks to reduce health inequalities and improve health and wellbeing. The Council is therefore working towards preventing the development of further hot food takeaway premises within Plymouth and especially those close to schools. This application is for a site which falls outside the 400m radius currently recommended by the draft Plymouth Plan. KFC have joined Public Health Responsibility Deal, this means they have made pledges to make on-going improvements to the ‘health’ of the food they sell. Therefore Public Health does not object to this application.

Highways England (HE) – Offer no objection to the application – HE initially placed a holding objection to application however as a result of the updated information, HE do not consider that there will be a severe impact to the strategic road network. This is subject to a condition ensuring the installation of MOVA to a number of key junctions prior to occupation.

Local Highways Authority (LHA) – Subject to conditions, LHA have no objection to the application – The application includes a Transport Assessment (TA) which justifies why the scheme is acceptable in transport terms. The LHA has considered the application alongside application 16/01102/S73; concern was expressed initially over the available stacking length on the application site. 3 comparable surveys have since been undertaken and a review of the Crownhill KFC by the applicants. These demonstrated that a queue length of 20 vehicles would not be exceeded at the proposed site. The relocated retail park entrance has extended the available stacking to 28 vehicles which the LHA consider can adequately accommodate the stacking. A queue management framework has been provided by the applicants to further reduce waiting times and this should be conditioned to be provided in detail.

The level of new trips generated by the development will be suitably mitigated for by the condition on the S73 application for the installation of MOVA at the Marsh Mills and adjoining junctions, and the enlarged access provided.

6. Representations

21 Letters of representation have been received; this includes 1 letter of support, 1 observation and 19 objections.

The key points from the representations are set out below:

Objections

- Impact on residents of the Marsh Close area need to be considered

- Traffic generation in surrounding residential streets (Marsh Close area)
- Increased traffic generation and congestion particularly Plymouth Road and Longbridge Road
- Impact on already busy area at rush hour with potential for accidents
- Impact on street parking
- Lateness of opening hours
- Surrounded area is saturated with takeaways
- Concern about litter from restaurants and takeaway
- Impact on residential amenity from; cooking odours, litter generation, opening hours, traffic noise and general disturbance
- Impact of late night use and anti-social use of car parking area
- Exacerbate issues already created by McDonalds with antisocial behaviour at all hours (boy racers) and litter on residential amenity
- Impact of early morning deliveries and refuse collection
- Concern of overlooking residential area
- Confirmation of car park being closed
- Confirmation no direct access from Marsh Close
- Confirmation of tree retention and boundary treatment for Marsh Close area

Supports

- Support additional food outlets in area
- Increase local employment provision

Observation

Controls should be placed to limit litter and waste, significant local issue which reflects poorly on the city

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.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007). The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework

(the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- Specific policies in the Framework indicate development should be restricted.

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

- Sustainable Design Supplementary Planning Document
- Development Guidelines Supplementary Planning Document
- Planning Obligations & Affordable Housing 2nd Review Supplementary Planning Document

8. Analysis

1. This application has been considered in the context of the development plan including policies CS02, CS07, CS08, CS12, CS18, CS19, CS22, CS34 and Strategic Objective 7 of the Adopted Core Strategy, and policies 21, 24, 26, 29, and 30 of the Plymouth Plan Part one, the Framework and other material policy documents as set out in Section 7.
2. While this application is a full application and needs to be considered on its merits, it is also part of a wider scheme for implementation on the wider Legacy Hotel Site which is the subject of a S73 Application 16/01102/S73. The applicant has confirmed that this application for Unit 6 has only been sought as the proposal for an A3/A5 proposal falls outside of the ambit of the original permission and that this proposal forms an integral part of the strategy. A Grampian condition will ensure that the two developments are brought forward together as a single scheme. The following condition will provide the linking of the two permissions.

‘The development hereby permitted shall not be occupied unless and until planning application 16/01102/S73 or any future approved variation of that permission has been implemented and the first unit occupied in accordance with that approval.’

3. This is an important consideration as the condition would restrict the operation of the premises until the other wider scheme has been implemented including the mitigation measures secured through planning conditions and S106 agreement.

Principle of development

4. The proposed development of a A3/A5 hot food takeaway in this location is considered acceptable in principle on this brownfield site, the use is appropriate in this mixed use principally commercial area and as part of the wider scheme for the site to develop a small retail park.

Design and Appearance

5. The proposal, as set out in detail in section 2 above, is for a two storey building, with a modern finish with a mix of glazing and architectural detailing, compiled largely of Kingspan wall panels with vertical Trekker cladding, providing a corner detailing. The overall appearance of the building is considered to sit comfortably with the wider area which is comprised of commercial, retail and restaurant/ takeaway properties. The building will form an integral part of the wider, former Legacy Hotel site scheme and corresponds to the layout of building proposed forming a logical approach to the development of the wider site.
6. The building sits on an island surrounded by the access/ loading area route to the South and West with the hot-food takeaway service route running along North-eastern part of this triangular central part of the site. Concern was expressed early in the application that the proposal was largely designed with hard landscaping and that further soft landscaping would help set the scheme within the wider strategy for the site and help to improve the visual appearance. A revised layout has been submitted which introduces eleven raised planters, these help to break up and soften the built form. In addition to the central triangle of the site, the site includes the access route into the site and a section of land which is the access route and service yard for the wider scheme in 16/01102/FUL. No detail of the proposed finish and approach to this area is provided however such detail is provided in the main application and the finish details are controlled via condition on that application. While such detail would normally be a requirement of a full application, given the Grampian condition proposed, this is considered to deal with these matters.
7. In conclusion, visually the proposal is considered acceptable, and is not out of keeping with the overall appearance of a small retail park or the wider area. The proposal is considered to present an acceptable built form with integrated landscaping. Overall the proposal is considered appropriate and to accord with the requirements of policies CS02 and CS34 of the Core Strategy policy and 29 and 30 of the Plymouth Plan.

Town Centre Uses

8. The application proposes an A3/A5 use class building, with a floor area of 379 sqm, in an out of town location and as such it is important to consider the requirements set out in Section 2 of the NPPF and Strategic Objective 7, policies CS07 and CS08 of the Core strategy and policies 21 and 41 of the Plymouth Plan.
9. It is not necessary for A3 and/or A5 to assess their impact on town centre locations, however the requirement for a sequential test is relevant to the proposal as this application forms part of the wider scheme set out in application 16/01102/S73 (to be linked by a Grampian condition). That proposal was considered to have passed the sequential test in application 12/02320/FUL, given the proposal was for a principally bulky goods retail park.
10. Given that this proposal cannot be operated without that schemes implementation it is not considered that a separate sequential test for this proposal alone is required and that the

sequential test should relate to the wider scheme. This, as stated, was previously considered to have passed the sequential test in application 12/02320/FUL. While there have been material changes in circumstance, this does not, in relation to the wider scheme alter the fact that given the proposal relates to a principally bulky goods retail park, that the sequential test is still met. This is due to the fact that sequentially preferable sites are not considered suitable for the wider proposal, in line with the previous applications consideration. It is however the case, that given that A3/A5 can revert to A1 use class, under permitted development rights, and as additional A1 retail floor space here would need to be carefully considered, a condition removing its permitted development rights is required.

11. The proposal is not considered to undermine the Council's wider strategy for the city centre or surrounding network of centres and is considered to accord with the requirements of section 2 of the NPPF and Strategic Objective 7, policies CS07 and CS08 of the Core strategy and policies 21 and 41 of the Plymouth Plan.

Impact on surrounding area amenity

12. The proposal is located in a principally commercial area however there is a residential area located to the north of the wider Legacy Hotel site. In relation to the wider commercial area the development is not considered to be out of keeping with this area and there are a number of similar uses which operate successfully alongside these uses. It is not therefore considered that the proposal would have a negative impact on the wider commercial area. The proposal does however have the potential to impact on the residential area to the north and significant concern has been expressed by local residents. Concerns include; over overlooking, noise and disturbance in antisocial hours, litter, odour and disruption in residential streets from vehicle movement and patrons of the proposed vicinity, and the potential for direct access through to Marsh Close area.
13. Neither the proposal for the subject of this application or the wider scheme in 16/01102/S73 includes direct access to be provided to Marsh Close. The wider scheme also includes and conditions, enhancement of the boundary with the Marsh Close area, with an acoustic fence and improved planting to separate the site from the residential area. The proposed restaurant and takeaway is located approximately 120 metres from the closest residential properties and the retail buildings, the subject matter of the wider scheme, will further separate the proposal from the residential area. Given the distance and boundary treatment secured in the wider scheme it is not considered that there would be overlooking from the proposal to the residential properties. The distance is also considered to reduce the potential for disturbance from the facility to these properties.
14. The wider scheme includes operational restrictions and barriers to restrict access into certain areas of the car park to limit the potential impact. In relation to this proposal, given the distance and the information submitted in the noise assessment, it is not considered that noise and disturbance from the operation of the premise will create a negative relationship to the residential properties, subject to the imposition of conditions. Such matters have been identified in the consultation response from Public Health, who have recommended the following conditions: limiting noise from plant equipment; odour control measures for ventilation; and restrictions on the delivery hours to 7-11pm subject to a delivery strategy which includes the type of delivery vehicles to be used, the location of delivery drop of areas and measures to limit the noise and disturbance generated. Information has also been submitted by the applicants in relation to waste collection and storage and litter management strategy. It is considered that subject to the conditions proposed, the measures secured in

applications 12/02320/FUL and 16/01102/S73 including the S106 parking restriction contribution for Marsh Close and additional conditions requiring the litter and waste management measures, that the scheme is acceptable in relation to the impact on residential amenity. It is therefore concluded that in relation to the implications of the scheme on residential amenity, that the proposed scheme, subject to conditions, is acceptable and accords with the requirements of policies CS34 of the Core Strategy and Policy 30 of the Plymouth Plan Part One.

Flood Risk

15. The application site is located in flood zone 3 and a critical drainage area and a flood risk summary and drainage overview report has been submitted in relation to the proposals. The original consent 12/02320/FUL was considered acceptable in relation to both flood risk and surface water drainage subject to conditions securing finished floor levels, the submission of flood plan compensation detail, code of practice during construction and a satisfactory surface water drainage system. Detailed consultation responses have been received from both the EA and the Lead Local Flood Authority (LLFRA) and further information has been submitted by the applicants to overcome both consultees concerns.
16. Agreement has now been reached with the LLFRA that subject to the imposition of the same conditions, as secured on the wider site that the approach to surface water management and flood risk is acceptable. This is subject to a number of key pieces of information being submitted in the discharge of the condition in relation to this and the wider site.
17. The EA have advised that while they would ideally require further information on the system for flood management and compensation measures to be submitted they are agreeable to the grant of the application provided that the conditions relating to the wider site are included on the grant of this consent. This should include the wider site detail as Grampian Conditions relating to floodplain compensation to be included on any permission granted and the finished floor level at 4.16m AOD secured. These matters are considered essential to ensure that the scheme is safe from flood risk and deliver adequate flood plain compensation and will be included. Subject to these conditions it is considered that the scheme is acceptable in flood risk terms and accords with policies CS12 of the Core Strategy and Policy 26 of the Plymouth Plan Part One.

Land contamination

18. As a previously developed site it is important to ensure that any land contamination is considered. A detailed ground investigation report has been submitted in support of the application. It is important to ensure that land contamination is adequately dealt with, to ensure contamination would not impact the future use of the site or result in detrimental future impacts to the surrounding area, in accordance with policy CS22 of the Core Strategy. This can be dealt with via conditions which govern the approach to land contamination which is also required on the remainder of the Legacy Hotel site. It is therefore concluded that the proposal, subject to conditions, accords with the requirements of policy CS22 of the Core Strategy.

Greenspace

19. The proposed scheme occupies a relatively limited area of land where development is proposed and the wider sections of the site running north and east are routes as part of the wider scheme. This leaves little opportunity for green space features. Natural England have

identified that the scheme could benefit from enhanced green infrastructure (GI) provision. The scheme does not include 11 planters which will provide a limited amount of green provision. The wider scheme does include further provision which is also limited; however a S106 contribution was secured a £35,000 contribution to enable biodiversity improvements to be delivered in Efford Marsh Local Nature Reserve. Given that this proposal and the alterations to the wider scheme 16/01102/S73 result in a net reduction in floor space it is not considered that an additional contribution is required for this proposal. On this basis the application is considered by officers to accord with Core Strategy policies CS18, CS19 and CS34 and policy 24 of the Plymouth Plan.

Highways and Transportation

20. The scheme is accessed from Plymouth Road via an access road which previously served the hotel. It will utilise the improvement to this access and enlarged junction which are provided by application 16/01102/S73 and also provided on this application. Updated plans have been received which alter the arrangement on this road. Priority access is now given to the main retail park, meaning that the vehicles visiting this A5 unit will need to give way to this traffic when egressing the site. This is considered an acceptable arrangement to access the site safely.
21. The site is located in a sustainable location with connections to local footways and cycle routes and local public transport services available nearby. The application provides 15 car parking spaces, including 2 disabled spaces, cycle parking facilities and two “grill bay” spaces, for customers with larger orders to wait. The level of car parking is considered acceptable for the proposed use and the proposal in its location is considered an acceptable form of development.
22. The inclusion of the A5 unit, the subject of this application, into the plans for the wider site, will introduce an increase in the trip generation onto the highway network to that previously considered in application 12/02320/S73. An updated Transport Assessment has been undertaken with further information provided by the applicants. This has been considered in detail by the Local Highway Authority, who considers that these trips are acceptable subject to the requirement on application 16/01102/S73, for the installation of Microprocessor Optimised Vehicle Actuation (MOVA) at the Marsh Mills and other local junctions. Given the condition which links the two applications implementation, it is considered that this mitigation ensures that this scheme is acceptable in relation to the additional trip generation on the local highway network.
23. Highways England (HE) initially placed a holding objection on the application given their concern over the level of information submitted by the applicant, in relation to the potential implications on the A38 part of the Strategic Road Network. Further information has now been provided by the applicant which has been reviewed by HE. HE now consider that on the basis of the applicants’ revised assessment and subject to the imposition of a condition relating to the installation of MOVA (prior to occupation), that they do not consider that there would be a severe impact on the Strategic Road Network as a result of the proposed development.
24. While in principle the increased traffic generated by the scheme is considered acceptable, there had been substantial concern over the potential implications of the takeaway use and the stacking of vehicles utilising this facility. These matters have been addressed in detail with

the applicants, as officers, the LHA and HE were concerned this could stack back onto Plymouth Road and interfere with the free-flow of traffic on the surrounding highway network.

25. The applicants have undertaken a comparative assessment with the KFC restaurant at Crownhill and have undertaken survey work at 3 comparable KFC drive-thru restaurants in the southwest. This has sought to demonstrate that there is sufficient stacking provided on the access road for vehicles before the entrance to the main retail park. This access road provides space for the stacking of 20 vehicles before the retail park entrance, the evidence provided by the applicants demonstrates a worst case scenario of a queue length of 18 vehicles. While a 20 vehicle stacking capacity would accommodate this adequately, officers remained concerned, given the impacts that the KFC restaurant at Crownhill can have on the A386. Given these concerns the applicant has amended the entrance into the retail park (in application 16/01102/S73) moving it approximately 40 metres to the east and making the entrance into a priority route rather than a right turn. These changes provide stacking for approximately 28 vehicles before the potential conflict with the retail park entrance. By way of comparison the KFC drive thru at Crownhill has only a stacking capacity of 14 vehicles before the entrance to B and Q. The applicant has also proposed the provision of a traffic management plan with facilities and measures, which would ensure that at busy times queues are actively managed to ensure that queue length is limited.
26. The improvements have been considered by the LHA and subject to conditions they now consider that the proposal is acceptable and that the queuing can be adequately accommodated on site. As such it is considered by officers that the scheme is acceptable and to accord with the requirements of policies CS28 and CS34 of the Core Strategy and policy 13 of the Plymouth Plan Part one.

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 Proposal is not liable to pay CIL, which only applies to Residential Development and Retail Superstores.

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.

Planning obligations have not been sought in relation to this application as the contributions secured on the wider site, the subject matter of 16/01102/S73, are considered to mitigate the impacts of the proposed development.

12. Equalities and Diversities

The proposed development will be available to all members of the public and will not prejudice against age, gender, religion, sexuality, ethnic background or nationality. The development will be fully compliant with the Disability Discrimination Act and therefore access for the disabled is provided.

The site is accessible to people from all areas of the city as the site is extremely well served by public transport, being adjacent to an existing Park and Ride site. The development will also provide car parking and cycle storage.

The development will be available to all equality groups. The application therefore does not have any adverse impacts on any equality groups.

13. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and specifically policies CS02, CS07, CS08, CS12, CS18, CS19, CS22, CS28 CS34 and Strategic Objective 7 of the Adopted Core Strategy, the Plymouth Plan Part one including policies 13, 21, 24, 26, 29, and 30, the Framework and other material policy documents as set out in Section 7.

The proposal is considered to provide an acceptable form of development and a logical extension to the proposals of the wider site secured in application 16/01102/S73. The siting, design, materials and finish of the development are considered to be acceptable and in keeping with the appearance and character of the area. While limited, the landscaping is considered suitable given the constraints of the site. Subject to detailed conditions controlling the operation of the development it is considered to preserve the amenity of the surrounding uses and residential properties and is considered to deal with the flood risk and surface water drainage requirements.

It is therefore recommended that the development be conditionally approved subject to the conditions set out below.

14. Recommendation

In respect of the application dated **07/07/2016** and the submitted drawings

10163 L94.101.B Softworks Plan, 10163 L01.101 Site Location Plan, 10163 L93.101 Hardworks Plan, 10163 L04.101.B Unit 6 Elevations and Section, 10163 L02.101 Proposed Unit 6 Floor plans, 10163 L01.102 Proposed Unit 6 Site Plan, 10163 L01.103 Proposed Unit 6 Extended Site Plan, 10163_L01.03 Illustrative Masterplan, S39 tree planter, Proposed Drive-thru Restaurant (Class A3/A5) - Supplemental Technical Note,

Transport Assessment, Applicant Response to Environment Agency Comments, Applicant Response to Consultation, Planning Statement, Tree Survey, Supplementary Ground Investigation, Phase 2 ground Investigation, Noise Assessment, KFC waste Collection, KFC Litter Management, KFC Economic Benefits, Flood and Drainage overview, Design and access statement, it is recommended to: **Grant Conditionally**

15. Conditions

CONDITION: DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

CONDITION: APPROVED PLANS

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

10163 L94.101.B Softworks Plan, 10163 L01.101 Site Location Plan, 10163 L93.101 Hardworks Plan, 10163 L04.101.B Unit 6 Elevations and Section, 10163 L02.101 Proposed Unit 6 Floor plans, 10163 L01.102 Proposed Unit 6 Site Plan, 10163 L01.103 Proposed Unit 6 Extended Site Plan.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraphs 61-66 of the National Planning Policy Framework 2012.

Pre-commencement Conditions

GRAMPIAN PRE-COMMENCEMENT: FLOODPLAIN COMPENSATION

(3) Prior to commencement of the development, details of proposed floodplain compensation for this site and for the wider legacy hotel site shown on plan 10163_L01.03 Illustrative Masterplan and details of its future maintenance shall be submitted to and agreed by the Local Planning Authority.

Prior to use of the development, it shall be demonstrated to the satisfaction of the Local Planning Authority that the full floodplain compensation has been completed in accordance with the agreed details. The floodplain compensation shall thereafter be maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason:

To ensure that this development manages flood risks appropriately and does

not increase flood risk to third parties in accordance with policy CS21 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

Justification To ensure the drainage and surface water provisions within the development are adequately provided for before development commences and do not cause undue problems to the wider drainage infrastructure.

GRAMPIAN PRE-COMMENCEMENT: SURFACE WATER DRAINAGE

(4) No development shall commence until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority for this site and the wider legacy hotel site shown on plan I0163_L01.03 Illustrative Masterplan.

The details shall include:

- Details of the drainage during the construction phase
- a timetable for construction
- a construction quality control procedure
- details of the final drainage scheme
- a plan for the future maintenance and management of the system.

Prior to occupation of the development a report shall be submitted demonstrating that the approved scheme has been implemented on site. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason:

To ensure the provision of a satisfactory means of surface water control and disposal during construction and for the final development in accordance with policies CS21 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

Justification To ensure the drainage and surface water provisions within the development are adequately provided for before development commences and do not cause undue problems to the wider drainage infrastructure.

PRE-COMMENCEMENT: CODE OF PRACTICE DURING CONSTRUCTION

(5) Prior to the commencement of the development hereby approved, a detailed management plan for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the management plan.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

Justification: To ensure that the construction phase does not unduly impact on local amenity such as disturbance to local residents or disruption to traffic and parking.

PRE-COMMENCEMENT: CONTAMINATED LAND

(6) 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 shall not take place until sections 1 to 3 of this condition 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 section 4 of this condition has been complied with in relation to that contamination.

Section 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, shall 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
- archaeological 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'.

Section 2. Submission of Remediation Scheme

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 shall be prepared, and is subject to the 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.

Section 3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that 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 the replaced PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Section 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of section 1 of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section 2, which is 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 section 3.

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 that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

Justification: To ensure that risks to health through contamination are properly considered and addressed before building works commence.

Other Conditions

CONDITION: ACCESS/HIGHWAY IMPROVEMENTS

(7) No development shall take place above the damp course layer until all details of the proposed changes to the site access road and its junction with the public highway have been submitted to and approved in writing by the Local planning Authority including details of safe uncontrolled cycle and pedestrian crossing across the site entrance which shall incorporate a central refuge island. The approved details shall be strictly adhered to during the course of development.

Reason:

In the interests of the safe and efficient operation of the local and trunk road networks, and to ensure that appropriate and safe access is provided in accordance with Policy CS28 and CS34 of the City of Plymouth Local Development Framework Core Strategy adopted April 2007 and policies and provisions of the NPPF.

CONDITION: LIGHTING DETAILS

(8) No development shall take place above the damp course layer until details of any external lighting have been submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall be fully implemented before the development is first occupied and henceforth permanently maintained.

Reason:

To ensure that any external lighting does not cause excessive light pollution and a resultant adverse impact upon the residential amenity of neighbouring properties in accordance with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

CONDITION: GRAMPIAN FULL SCHEME DELIVERY

(9) The development hereby permitted shall not be occupied unless and until planning application 16/01102/S73 or any future approved variation of that permission has been implemented and the first unit occupied in accordance with that approval.

Reason:

To ensure satisfactory provision of site wide flood plain compensation and surface water management measure, and also to ensure compliance with the retail sequential test, delivery of satisfactory green space mitigation measures to ensure a net gain for biodiversity and highway mitigation measures to ensure the safe operation of the development hereby approved and in accordance with policies CS02, CS07, CS08, CS12, CS18, CS19, CS22, CS34 and Strategic Objective 7 of the Adopted Core Strategy, and policies 21, 24, 26, 29, and 30 of the Plymouth Plan Part one, and the Framework.

CONDITION: LANDSCAPE DESIGN PROPOSALS

(10) Development shall take place in full accordance with the landscape details approved on plans 10163 L94.101.B Softworks Plan, 10163 L93.101 Hardworks Plans and S39 tree planter detail which must be completed prior to the operation of the unit and permanently retained and maintained thereafter.

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and provisions of the NPPF.

CONDITION: CYCLE PROVISION

(11) The building shall not be occupied until space has been laid out within the site for 4 customer bicycles to be securely parked. The secure area for storing bicycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the policies and provisions of the NPPF.

CONDITION: CAR PARKING AND CYCLE PROVISION PROVISION

(12) Unless otherwise agreed previously in writing with the Local Planning Authority, the building shall not be occupied until space has been laid out within the site in accordance with details hereby approved for 15 cars to be parked and the cycle provision shown on the approved plans. The car parking space and cycle parking shall thereafter permanently retained for that purpose.

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 CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the policies and provisions of the NPPF.

CONDITION: DELIVERY STRATEGY

(13) A delivery strategy plan shall be submitted to, and approved in writing by the Local Planning Authority prior to the opening of the unit. The approved scheme shall be implemented prior to the opening of the unit and permanently operated thereafter.

The strategy should include the type of delivery vehicles to be used, the location of delivery drop of areas and measures to limit the noise and disturbance generated.

Reason:

To protect the residential and general amenity of the area from disturbance for noise at unreasonable hours and avoid conflict with policy CS22 of the Plymouth Adopted Core Strategy and the NPPF

CONDITION: NOISE

(14) Prior to the Operation of the premises full details of the fixed plant and equipment: including mechanical ventilation extraction, refrigeration and/or air conditioning units installed in the unit shall be submitted to and approved in writing by the Local Planning Authority.

The noise producing equipment specified shall be installed as described and before commissioning shall be tested and shall achieve the following sound levels. The noise emanating from equipment (LAeqT) shall not exceed the background noise level (LA90) as described in the noise assessment as 38dB by more than 5dB, including an adjustment to allow for the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property.

Reason:

To protect the residential and general amenity of the area from noise emanating from the operation of any mechanical extract ventilation system and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy and the NPPF.

CONDITION: ODOUR CONTROL

(15) The development consented hereby will include the installation of a mechanical kitchen extract ventilation system. Prior to the installation of the mechanical kitchen extract ventilation system, a scheme for the installation of the associated equipment to control the emission of fumes and smell from the premises shall be submitted to, and approved in writing by, the local planning authority and the approved scheme shall be implemented and permanently thereafter. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reason:

To protect the residential and general amenity of the area from odour emanating from the operation of any mechanical extract ventilation system and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (16) 2007 and policies and provision of the NPPF.

CONDITION: HOURS OF DELIVERY AND COLLECTION

(16) Hours of Delivery and Collection to the unit shall be restricted to the following times:

Monday to Sunday including Bank Holidays- 07:00 to 23:00hrs

Reason:

To protect the residential and general amenity of the area from disturbance for noise at unreasonable hours and avoid conflict with policy CS22 of the Plymouth Local development Framework Core Strategy (2006-2021) 2007

CONDITION: WASTE STORAGE

(17) Prior to the occupation of the use hereby permitted a suitably screened and covered area for the storage of waste shall be provided on site to accommodate lidded refuse storage containers.

Reason:

To ensure that trade waste does not constitute a hazard to public health or detrimentally affect the visual appearance of the neighbourhood in accordance with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the policies and provisions of the NPPF..

CONDITION PRE-OCC: TRAFFIC MANAGEMENT PLAN

(18) The use of the proposed drive-thru restaurant shall not commence until the applicant has submitted to the Local Planning Authority for approval a Traffic Management Plan (TMP). The TMP shall provide details relating to the management of all traffic queueing with measures to reduce

queue lengths accordingly. Details shall be submitted to and approved in writing by the Local Planning Authority. From the date of occupation the applicant shall operate the approved TMP.

Reason: In order to ensure that queues are properly managed in order to prevent vehicles from stacking back within the site, to the detriment of the retail park access or the local highway network, which would give rise to conditions likely to cause: (a) Damage to amenity; (b) Prejudice to public safety and convenience; © Interference with the free flow of traffic on the highway which is contrary to Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

CONDITION PRE-OCC PEDESTRIAN/CYCLE ACCESS

(19) The proposed drive-thru restaurant shall not be occupied until a means of access for both pedestrians and cyclists has been constructed in accordance with the approved plans.

Reason: To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

CONDITION: WASTE MANAGEMENT

(20) The KFC waste collection procedure here by approved shall be permanently operated following the opening of the store.

Reason:

To sure the waste generated from the site does not impact on the visual appurtenance and residential amenity of the surround area and in accordance with the requirements of policies CS34 of the Core Strategy and policy 30 of the Plymouth Plan Part one.

CONDITION: LITTER MANAGEMENT

(21) The KFC litter policy here by approved shall be permanently operated following the opening of the store.

Reason:

To sure the waste generated from the site does not impact on the visual appearance and residential amenity of the surround area and in accordance with the requirements of policies CS34 of the Core Strategy and policy 30 of the Plymouth Plan Part one.

CONDITION: RESTRICTION ON PERMITTED CHANGES OF USE

(22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification),), no change of use of the proposed A3/A5 unit to a use falling within Classes A1 or A2 of Part 3 of Schedule 2 to that order shall be carried out.

Reason:

The Local Planning Authority considers that, in the particular circumstances of the case, the use of the premises for the purpose specified is appropriate, but that a proposal to use the premises for any other purpose would need to be made the subject of a separate application to be considered on its merits in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

CONDITION: FINISHED FLOOR LEVEL

(23) The finished floor level of the proposed unit shall be at least 4.16m AOD.

Reason:

To ensure that the development is safe from flood risk and in accordance with policies CS12 of the Core Strategy and Policy 26 of the Plymouth Plan Part One.

CONDITION: OPENING HOURS

(24) The A3/A5 uses hereby permitted shall not be open to customers outside the following times: 0700 hours to 2300 hours Mondays to Sundays and Bank or Public Holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and to avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.

Informatives

INFORMATIVE: CONDITIONAL APPROVAL

(1) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant including pre-application discussions and has negotiated amendments to the application to enable the grant of planning permission.

INFORMATIVE: PUBLIC HIGHWAY ENGINEERING DETAILS

(2) No work within the public highway should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. The applicant should contact Plymouth Transport and Highways for the necessary approval.

INFORMATIVE: DRAINAGE

(3) The drainage in a food preparation area should be fitted with a grease separator in line with Building Regulations Approved Document H and prEN1825-1:2004, design in accordance with prEN1825-2:2002 or other effective means of grease removal.

INFORMATIVE: KITCHEN LAYOUT AND DESIGN

(4) The applicant/s should submit details of the proposed layout and design of any proposed kitchen to the food safety and standards team prior to the installation of any equipment in order that comments can be made regarding the layout and compliance with hygiene regulations.

INFORMATIVE: DEVELOPMENT DOES NOT ATTRACT A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

(5) The Local Planning Authority has assessed that this development, although not exempt from liability under the Community Infrastructure Levy Regulations 2010 (as amended), will not attract a levy payment, due to its size or nature, under our current charging schedule. The Levy is subject to change and you should check the current rates at the time planning permission first permits development (which includes agreement of details for any pre-commencement conditions) see www.plymouth.gov.uk/cil for guidance. Index-linking may also apply.

INFORMATIVE: DRAINAGE AND SURFACE WATER MANAGEMENT DETAIL

(6) As part of the discharge of the Surface Water and Drainage Conditions the following information will be required:

- Evidence to demonstrate that the surface water drainage system is designed to the specified standard taking into account the potential for tidelocking. Details of level and condition of the outfall should be assessed.
- The level of ground water on site should be established and attenuation tanks designed to ensure they are not at risk from hydraulic lift.
- Permission to discharge to the proposed drainage system is required to be provided with confirmation of acceptance of the proposed discharge rate.
- An assessment that the system is in suitable condition for the lifetime of the development is required.
- Drawing Ref 4335-2900 shows exceedance flows being directed to the car parking area before being directed off the site and into Marsh Close. It should be designed so that discharge is retained on site
- A maintenance and management schedule for the proposed system should be submitted
- A construction Environment Management Plan should be submitted for approval prior to construction.

INFORMATIVE: EXTINGUISHMENT OF PUBLIC HIGHWAY RIGHTS

(7) Before the access road shown on the approved plan is constructed the public highway access rights over part of the associated land shall be formally extinguished in accordance with Section 247 of the Town and Country Planning Act.

Reason:

In the interests of public safety and amenity in accordance with Policies CS28 and CS34 of the Local Development Framework Core Strategy (2006-2021) 2007 and policies and provisions of the NPPF.