



## Appeal Decision

Inquiry Held 16 July 2019 to 18 July 2019

Unaccompanied site visits made on 15 July 2019 & 19 July 2019

**by L Fleming BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> August 2019

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**Appeal Ref: APP/U1105/W/19/3221978**

**Employment Site, Two Bridges Road, Sidford EX10 9QR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Tim & Mike Ford (OG Holdings Retirement Benefit Scheme) against the decision of East Devon District Council.
  - The application ref 18/1094/MOUT, dated 9 May 2018, was refused by notice dated 16 October 2018.
  - The development proposed is outline application (with scale and appearance reserved) for the change of use of agricultural land to employment land (B1, B8 and D1 uses) to provide 8,445 sqm of new floorspace, new highway access, cycle and footway, improvements to flood attenuation, building layout and road layout, new hedgerow planting and associated infrastructure.
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### Decision

1. The appeal is allowed and outline planning permission is granted for outline application (with scale and appearance reserved) for the change of use of agricultural land to employment land (B1, B8 and D1 uses) to provide 8,445 sqm of new floorspace, new highway access, cycle and footway, improvements to flood attenuation, building layout and road layout, new hedgerow planting and associated infrastructure at Employment Site, Two Bridges Road, Sidford EX10 9QR in accordance with the terms of the application, 18/1094/MOUT, dated 9 May 2018, subject to the conditions set out in the schedule attached to this decision.

### Application for costs

2. An application for a full or partial costs award was made before and added to at the Inquiry by Mr Tim & Mike Ford (OG Holdings Retirement Benefit Scheme) against East Devon District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The application was submitted in outline with approval being sought for detailed matters relating to the access, landscaping and layout only. Detailed matters relating to scale and appearance are reserved for future approval. I have dealt with the appeal on that basis, treating the plans as illustrative only where they relate to scale and appearance.
4. A legal agreement dated 11 July 2019, made under S106 of the Town and Country Planning Act 1990, was completed and submitted before the Inquiry.

This provides for part of the Sidmouth to Sidbury Cycle Route and the provision, maintenance and management of drainage and flood attenuation measures. I shall return to this matter later in my decision.

### **Main Issue**

5. The main issue is the effect of the traffic related to the B8 (storage or distribution) element of the development proposed on highway safety.

### **Reasons**

6. Strategy 26 of the East Devon Local Plan 2013 to 2031 (2016) (LP) makes clear that up to 5 hectares of additional employment land will be provided in Sidmouth. It states this will be achieved with a particular onus on B1 (business) space and that land is allocated north of Sidford (Site 041A/041B) which will be developed in two phases. The appeal site is effectively the first phase of the allocation broadly reflecting Site 041A.
7. The proposal would provide a total of 8,445m<sup>2</sup> of floorspace. This would be 5,067m<sup>2</sup> or 60% B1 (business), 2,533m<sup>2</sup> or 30% B8 (storage or distribution) and 845m<sup>2</sup> or 10% of D1 (non-residential institutions) floorspace.
8. Informed by a raft of evidence<sup>1</sup>, the Local Plan Inspector made clear the employment policies of the LP are designed to, amongst other things, deliver a wide range and type of employment land, support existing small and medium businesses and provide opportunities for young people to secure good jobs, training and education. He noted that the only alternative site in Sidmouth is the Alexandria Industrial Estate which was constrained by among other things a poor access making it unattractive to new users<sup>2</sup>.
9. There is no substantive evidence before me to suggest that the employment needs of the area have changed or that the Alexandria Industrial Estate constraints have been overcome since the LP was examined and subsequently adopted. The appeal site is therefore clearly needed to meet the need for a mix and variety of all types of employment space in the area.
10. Thus, the overriding aim of Strategy 26 with regards to employment must be to ensure the needs are met. The word onus implies a burden or responsibility. In the absence of any other explicit guidance I take this to mean more B1 (business) use than any other use, indeed this is what the employment evidence suggests together with a significant need for B8 (storage or distribution) floorspace<sup>3</sup>.
11. The proposed layout shows a range of different sized workspaces. I was told that many of the units would be offered to the market as mixed B1 (business) and B8 (storage or distribution) uses providing flexibility and to appeal to a broader variety of enterprises. I have no reason to doubt this. At 60% the majority of the space would be B1 (business) and the provision of some B8 (storage or distribution) space single use or mixed with B1 (business) through its variety and mix would in my view match the employment needs of the area.

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<sup>1</sup> Including the East Devon Employment Land Review 2006 – 2026, Atkins 2007; the East Devon Employment Land Review - Local Plan, East Devon District Council 2013 and the East Devon Housing and Employment Study, Roger Tym 2011

<sup>2</sup> Paragraphs 54 & 91 of the East Devon District Council New Local Plan 2006 -2026, Inspectors Report January 2016

<sup>3</sup> Table 5.6 of the East Devon Employment Land Review - Local Plan, East Devon District Council 2013 and the East Devon Housing and Employment Study, Roger Tym 2011

In this regard the proposal therefore accords with the economic development aims of Strategy 26 of the LP.

12. Policy TC7 of the LP states planning permission will not be granted if the proposed access or traffic generated by the development would be detrimental to the safe and satisfactory operation of the highway network.
13. There would be a single point of access from the A375 with an anticipated 25% of vehicle trips generated by the proposal passing through Sidbury to the north (the route to the north) and 75% passing through the Sidford Cross Junction to the south (the route to the south).
14. In both directions there are a number of pinch points where features including parked cars, bridges, buildings, walls and vegetation lead to the narrowing of the carriageway. Specifically, sections of the carriageway at School Street in Sidford were measured at between 4.9 and 5.1 metres wide between narrow footways. In Sidbury at Chapple Street South (Burnt Oak) where there is no footway and unrestricted parking a section of the carriageway was measured at between 6.6 and 7.7 metres wide and at Chapple Street North sections of the carriageway measured at between 5.1 and 6.3 metres wide. At Harvest Cottage and Cotford Bridge in Sidbury the carriageway was measured at only 4.8 metres wide with no footways<sup>4</sup>.
15. I observed all of these locations and walked considerable lengths of both Sidford and Sidbury during parts of the morning and evening peak periods. At these pinch points the highway would not meet the ideal minimum widths required for vehicles to overtake cyclists in comfort and would not allow vehicles to pass side by side based on typical dimensions<sup>5</sup>. Furthermore, it is also clear that for sections of the route to the north and south pedestrians would use the narrow carriageway either due to a very narrow or no footway. Visibility is also restricted in some locations due to bends in the road or the same features which lead to pinch points.
16. However, whilst on-coming traffic and other road users would have to wait for a HGV to pass through these pinch points, there is no substantive evidence to suggest that a HGV is not able to carefully and safely pass through any of these specific locations at low speed. Indeed, I observed buses and HGV's doing this. Furthermore, the traffic survey undertaken as part of the appellant's traffic assessment clearly shows a significant number of large vehicles including HGV's already using the routes to the north and to the south.
17. Whilst the video evidence<sup>6</sup> also showed the difficulties faced by lorries and buses and how the A375 can become blocked at the pinch points. It also showed drivers and local people carefully marshalling vehicles to unblock the road. I accept that such may involve extensive and careful manoeuvring sometimes on land outside of the carriageway. I also do not doubt that road blockages at pinch points are fairly frequent and can cause lengthy delays, long queues of traffic and damage to properties in some instances.

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<sup>4</sup> Devon County Council Statement of Case 2019

<sup>5</sup> The Manual for Streets, CLG, DfT and others 2007 and The Manual for Streets 2, CIHT 2010

<sup>6</sup> Video evidence from Mr J Loudon (No Sidford Business Park Campaign)

18. However, Personal Injury Accident records show on average less than two reported collisions a year<sup>7</sup> in the area. Those incidents are dispersed such that they do not point to any safety concerns at any particular location. Furthermore, they do not point towards any particular conflict between HGV's pedestrians or cyclists. It is also common ground between the Council and the appellants that this data does not identify any specific highway safety concerns.
19. The speed is restricted in Sidford and Sidbury mainly to between 20 and 30 mph. Whilst I note the comments that drivers may not adhere to the speed limit, this should be enforced. I also observed drivers travelling at much lower speeds particularly as drivers adjusted their speed to carefully pass through the pinch points considered above.
20. Informed by TRICS<sup>8</sup>, HGV trips generated by the proposed 2,533m<sup>2</sup> of B8 (storage or distribution) floorspace are forecast at just over 46 trips between 0700 and 1900 on a weekday. On average this would be four additional HGV trips per hour spread between the routes to the north and south. The whole development is forecast to only generate 86 HGV trips over the same period equating to on average 7 HGV trips per hour<sup>9</sup>.
21. Even though the forecasting relies on existing employment sites spread throughout the United Kingdom which do not have the same road context as the appeal site, in terms of use there is no substantive evidence to suggest they are not comparable. I find the forecasting of HGV trips to be reasonable and robust and shows the B8 (storage or distribution) element of the proposal contested would result in only a marginal increase in HGV's passing through the routes to the north and to the south.
22. The blockages which occur at pinch points are clearly undesirable with delays causing much inconvenience. The proposal would marginally increase the risk of these blockages occurring more frequently leading to further inconvenience. However, there is no substantive evidence before me to suggest that this marginal increase in HGV's would make any part of the route to the north or south unsafe. There would be an increased risk of a delay arising from the route becoming blocked and for that blockage to be cleared but even with this increased risk it would not mean the network is not able to operate satisfactorily. Moreover, there was no evidence put to me to indicate that the Highway Authority are taking any action to address any particular current concerns with regard to the operation of either the route to the north or south.
23. Although the same detail was not before him, the Local Plan Inspector also noted parts of the surrounding road network narrows but found the allocation was supported by a detailed traffic assessment<sup>10</sup> and that the Highway Authority was satisfied that any impacts can be safely accommodated<sup>11</sup>. That traffic assessment was based on a masterplan proposal which would include 22,800m<sup>2</sup> of floor space, up to 9,120m<sup>2</sup> B1 (business), 6,840m<sup>2</sup> of B2 (general industrial) and 6,840m<sup>2</sup> of B8 (storage or distribution). This is a significantly

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<sup>7</sup> Section 6.3 of the Transport Assessment for Land East of Two Bridges Road, Sidford, Sidmouth, Jubb Consulting Engineers Ltd 2018

<sup>8</sup> Trip Rate Information Computer System

<sup>9</sup> HGV Trip Generation Technical Note, Jubb Consulting Engineers Ltd 2018

<sup>10</sup> Transport Assessment for Business Park development at Sidford, Sidmouth, Jubb Consulting Engineers Ltd 2012 and Travel Plan 2012, Jubb Consulting

<sup>11</sup> Paragraph 94 of the East Devon District Council New Local Plan 2006 -2026, Inspectors Report January 2016

larger development than that before me. Even though HGV movements were not explicitly estimated in the evidence the mix of uses proposed would have inevitably resulted in additional HGV movements being generated.

24. Thus, having regard to the detailed evidence put to me, consistent with the Local Plan Inspector's findings on highway matters in relation to the appeal site, I find the traffic related to the B8 (storage or distribution) element of the proposed development would not compromise highway safety or the satisfactory operation of the highway network.
25. The proposal would therefore accord with Strategy 26 and Policy TC7 of the LP which taken together seek to ensure new development meets the needs of the area without compromising the safe and satisfactory operation of the highway network.
26. It therefore follows that there is also no conflict with Paragraph 109 of the National Planning Policy Framework (the Framework) which states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety; or the residual cumulative impacts on the road would be severe as I have clearly found this not to be the case.

### **Other Matters**

#### *Heritage assets*

27. The appeal site is close to the boundary of the Sidmouth Conservation Area (CA) and a number of listed buildings within it notably, the grade II listed Country House, 1, 2 & 3 School Street (Country House).
28. The CA is characterised by traditional properties some finished in cobb and thatch with simple traditional architectural detailing but set within a wider agricultural landscape. The grade II listed Country House is positioned within the CA closest to the edge of the settlement and on the main route into the built-up area. In my view the significance of these listed buildings derives from their traditional architectural detailing and setting in the rural landscape. The significance of the CA derives from the traditional architectural detailing of the buildings within it and also from its setting in an agricultural landscape.
29. The layout and landscaping details show buildings set back from the road behind landscaping with spacing between them. This landscaping would soften the appearance of any form of development, maintaining a relatively soft transition from the built-up area to the countryside. This would still be the case when the CA and the listed buildings are appreciated from all the various vantage points identified in the Landscape and Visual Impact Assessment. Furthermore, there is no substantive evidence to suggest that any increase in traffic of any type would result in any form of damage to heritage assets in the locality through vibration.
30. Thus, subject to approval of reserved matters relating to scale and appearance I find the scheme would not harm the setting or significance of any listed buildings within the CA. In this regard the proposal would accord with Policies EN9 and EN10 of the LP which aim to ensure good design, safeguard the character of an area and protect heritage assets and their settings.

### *European Designated Sites*

31. The appeal site is some 2.5km away from the Sidmouth to West Bay Special Area of Conservation (SAC). The East Devon Pebblebed Heaths SAC and East Devon Heaths Special Protection Area (SPA) are some 5.9km away and the Beer Quarry and Caves SAC is some 7.6km away.
32. The Sidmouth to West Bay SAC has been designated due to the presence of Vegetated Sea cliffs of the Atlantic and Baltic Coasts, *Tilio-Acerion* forests of slopes, scree and ravines and annual vegetated drift lines. The East Devon Pebblebed Heaths SAC has been designated due to the presence of Northern Atlantic wet heaths with *Erica tetralix*, European dry heaths and Southern Damsel fly. The East Devon Heaths SPA has been designated due to the presence of breeding populations of Dartford warbler and Nightjar and the Beer Quarry and Caves SAC designated due to populations of Bechstein's bat, Lesser horseshoe bat and Greater horseshoe bat.
33. When considering the effect of the proposed development, the evidence<sup>12</sup> identified recreational impacts, loss of habitat within the appeal site affecting bat populations associated with Berry Quarry and Caves SAC, changes in air quality; and changes in water resources as potential impacts on the European sites. I agree that being commercial and some distance away, there would not be any significant increase in recreational visits to any of the European sites.
34. There are no supporting habitats on the appeal site for the specific bat populations associated with the Beer Quarry and Caves SAC which is some 7.6km away. There would also be no significant air quality effects arising from construction due to the separation distances.
35. Operationally, traffic movements associated with the scheme would be below the 1000 annual average daily traffic threshold and are not therefore deemed significant. The appeal site is part of a larger allocation in the LP which has been subject to a detailed Habitats Regulations Assessment. I am told any in-combination effects on air quality are therefore avoided due to strategic level mitigation considered through the LP preparation process, I have no reason to doubt this. No likely significant effect resulting from changes in water quality were identified as all new licences for water abstraction would be subject to Habitat Regulations Assessment.
36. Natural England have raised no concerns with regard to the effect on European sites and for the reasons given. I agree and find the potential for likely significant effects on the qualifying interests of the European sites can be excluded at the screening stage and it is not therefore necessary for me to undertake an appropriate assessment to comply with Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017.

### *Planning Obligations*

37. I am satisfied that the provision of part of the Sidmouth to Sidbury Cycle Route and the provision, maintenance and management of drainage and flood attenuation measures are directly, fairly and reasonably related and that they are necessary to make the proposed development acceptable in planning terms. As such they accord with Regulation 122 of the Community

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<sup>12</sup> Including the Proof of Evidence of Dr M Cowley 2019 and Appendix C of the Environmental Statement 2018

Infrastructure Levy Regulations 2010 (as amended). I have therefore had regard to these planning obligations in my determination of the appeal.

*Other considerations*

38. I have considered the photographs of floods in the area and the concerns raised by local people with regard to flooding and drainage. However, neither the Council nor the Environment Agency have objected to the proposal on flood risk grounds subject to the imposition of conditions. The flood risk assessment (FRA) demonstrates that there will be betterment.
39. I am therefore satisfied that with conditions requiring the detailed design of the surface water management systems to be agreed during and after construction and with the provisions of the FRA secured through condition and the planning obligation that the development would be safe for its lifetime without increasing flood risk elsewhere.
40. With regard to Air Quality and Noise, I have noted the detailed comments with regard to whether or not the assessments in the Environmental Statement are robust. However, I am satisfied the air quality dispersion modelling study area was defined using the correct guidance from the Institute of Air Quality Management (IAQM) and Environmental Protection UK (EPUK). The same guidance also indicates when it is necessary to undertake detailed assessments outside of the study area. I note the sensitivity of the Sidbury Primary School and the position of its outside areas close to the A375 and the general traffic which would pass through Sidbury and Newton Poppleford. However, these locations were not assessed in detail because they are outside of the modelling study area. Furthermore, the forecast level of change in traffic flows was below the thresholds recommended for assessment outside of the study area. I am satisfied the assessment is robust and that there will be no significant harm arising from any change in air quality as a result of the proposal.
41. With regard to noise, the Environmental Statement concludes it is unlikely there would be any adverse impact due to traffic noise on all of the existing receptors assessed. Whilst I accept these receptors are all in close proximity to the site and none were assessed in Sidbury, this is because the forecast change in traffic through Sidbury as a result of the proposal was estimated at less than 2%. Overall, with regard to the Environmental Impact Assessment, I find it has been undertaken appropriately and proportionately. I do not therefore need to direct that further work is undertaken with regard to either noise or air quality.
42. In addition, concern has also been expressed with regard to the effect of the proposal on wildlife and biodiversity, the landscape and the Area of Outstanding Natural Beauty, lighting and the effect on the Norman Lockyer Observatory, on archaeology, loss of agricultural land, health, trees and hedgerows and the effect on the working conditions of employees due to odours.
43. However, conditions have been imposed which require an ecology mitigation and enhancement plan, a programme of archaeological works and a scheme of lighting to be agreed. There is no substantive evidence to suggest that odours could not be controlled to within acceptable levels. Whilst the health impacts associated with air quality and noise are fully acknowledged the Environmental Statement concludes the effect of the proposal in regard to these matters

would be negligible and I agree. Even though some hedgerow would need to be removed this would be replaced with new hedgerow and additional planting as part of the approved landscaping details. Detailed design is reserved for future approval. Furthermore, all these matters are largely identified and considered within the officer's delegated report and were before the Council when it prepared its evidence and submitted its case at the Inquiry. Other than the main issue, the Council did not conclude that any other matters would amount to reasons to justify withholding planning permission. I have been provided with no substantive evidence which would prompt me to disagree.

44. I have also had full regard to the emerging Sid Valley Neighbourhood Plan<sup>13</sup> (NP). I accept this is in the very later stages of preparation and as an emerging component of the development plan attracts significant weight.
45. However, Policy 18 of the NP deals with employment land and aims to ensure such is retained for that purpose. Policy 3 of the NP is concerned with settlement coalescence particularly between Sidford and Sidbury and states in an area identified adjoining the appeal site development will only be acceptable if it does not impact on the visual and physical separation of Sidford and Sidbury. A significant gap would remain, the proposed landscaping would soften the edge of the proposed development and landscape, character or appearance matters are not disputed between the main parties. Overall, I find no conflict with the NP.
46. I have also considered the comments with regard to the loss of agricultural land. Irrespective of its grade the appeal site is allocated for development in the development plan where this matter would have been fully considered and the benefits of the development were found to outweigh the loss of agricultural land. There is no substantive evidence before me to lead me to any different conclusion.

### **Conditions**

47. A draft list of recommended conditions was provided before the Inquiry and revised following discussion at the Inquiry having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance. Even though the application is in outline, the appellant has agreed to the pre-commencement conditions and their wording.
48. In addition to the standard timescale conditions and the requirement for reserved matters to be agreed, I have imposed a condition specifying the relevant drawings as this provides certainty.
49. Conditions which ensure any noise from the development and any associated plant and machinery is operated in accordance with noise levels which are acceptable in a residential area are necessary in the interests of safeguarding the living and working conditions of residents living nearby and people employed on the site. For the same reasons a condition is necessary to limit deliveries to within reasonable hours. Interested parties requested shorter hours and no deliveries at weekends, however the hours I have imposed were agreed between the appellant and the Council and I am told are consistent with those imposed on other commercial uses in residential areas. There is no

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<sup>13</sup> A Neighbourhood Plan for the Sid Valley 2018-2032, Referendum Version.

- justification for an alternative approach, and I am satisfied the delivery hours are acceptable.
50. The agreement and implementation of a lighting scheme is necessary in the interests of safeguarding the character and appearance of the area and to avoid light pollution. Due to the relationship with the residential areas a pre-commencement condition is necessary and justified to ensure the proposal is constructed in accordance with a construction management plan to avoid unreasonable noise and disturbance, minimise short term effects on the character and appearance of the area and ensure highway safety is maintained.
  51. A condition is also necessary to ensure appropriate visibility is achieved and maintained at the point of access to ensure highway safety in the area is not compromised.
  52. Furthermore, conditions requiring the detailed design of the surface water drainage management systems for the construction period and operation of the development to be agreed and implemented are necessary in the interests of proper site drainage and flood avoidance. These are necessarily pre-commencement as any site clearance work will affect the surface water drainage. For the same reasons a pre-commencement condition is necessary and justified which requires details of exceedance pathways and flow routes to be agreed and implemented in the event of rainfall in excess of the design standard of the approved surface water drainage management systems. Moreover, for the same reasons and to ensure flood risk betterment a condition is necessary which requires the proposed flood plain enhancements to be implemented prior to first occupation.
  53. I also agree a condition is necessary to ensure a programme of archaeological investigation and subsequent work is agreed to ensure it is appropriately investigated and appropriate action is taken to safeguard archaeological remains if any such remains are found.
  54. Conditions are also necessary to ensure an ecological mitigation and enhancement strategy is agreed and implemented and an environmental plan is required to manage earth movement, storage and the phased delivery of the site landscaping in the interests of safeguarding ecology, the character and appearance of the area and nearby residents living conditions. For the same reasons and to safeguard trees and hedges a condition requiring an arboricultural method statement to be agreed and implemented is also necessary. These matters are all affected by site clearance therefore pre-commencement conditions are justified.
  55. However, a condition requiring that prior to the construction of part of the Sidbury to Sidmouth cycle and footpath a bespoke flood risk activity Environmental Permit is obtained from the Environment Agency is not necessary as this is a requirement of the appropriate regulations. For the same reason and given the layout is being approved a condition requiring that no building or structure shall be permitted within 3.5 metres of the water main and unimpeded access to the water main must be retained is also not necessary. I have therefore not imposed conditions to this effect.

### **Conclusion and Planning Balance**

56. The proposed development would help meet the significant employment needs of the area. The drainage and flood attenuation measures would reduce the risk of surface water flooding elsewhere. The proposal would also contribute towards a section of the Sidmouth to Sidford Cycle route. These are significant benefits that outweigh the effects and inconvenience of the increase in HGV traffic in the area.
57. Thus, on balance, having had regard to all other matters raised the proposal would accord with the development plan and there are no other material considerations which lead me to make my decision other than in accordance with the development plan. The appeal should therefore be allowed.

*L Fleming*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) Approval of the details of the scale and appearance of the building(s) (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
- 2) 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.
- 3) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby approved shall be carried out in accordance with the following approved plans:
  - Location Plan L001 – Context Logic
  - Build Layout Plan with indicative building types information L002 Rev A – Context Logic
  - Road and Building Layout SK001 P1 (A1) – Jubb Consulting Engineers
  - Road and Building Layout SK001 Rev P6 – Jubb Consulting Engineers
  - Vehicle Tracking 16.5m Articulated Vehicle SK002 Rev P5 – Jubb Consulting Engineers
  - Redline Plan SK003 Rev P2 – Jubb Consulting Engineers
  - Redline Plan with Masterplan SK004 Rev P4 – Jubb Consulting Engineers
  - Foul Drainage connection point P9687\_H101(A) – Jubb Consulting Engineers
  - Landscape Strategy 180323 DHUD March 2018
    - Drawings SIDLSCP001 Rev 180323 (Landscape Character & Strategic Site Situation),
    - SIDLSCP002 Rev 180323 (Landscape Concept),
    - SIDLSCP003 Rev 180323 (Open Space Type & Function)
    - SIDLSCP004 Rev 180323 (Landscape Framework Plan)
- 5) Any noise from fixed plant comprised in the development shall not cumulatively exceed 10 dB below background at the nearest residential property (background being 40 dB(A) measured between 0700 to 2300).
- 6) Machinery shall only be operated outside any premises on the site between the hours of 0730 and 1800 Monday to Fridays.
- 7) Any plant (including ventilation, refrigeration and air conditioning units) or ducting system to be used in pursuance of this permission shall be operated so that the noise generated at the boundary of the nearest neighbouring property does not exceed Noise Rating Curve 25, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service

Engineers Environmental Design Guide.

- 8) Deliveries or collections shall only take place on the site between the hours of 0700 and 1800 Monday to Fridays, and between the hours of 0700 and 1300 on Saturdays with no deliveries or collections on Sundays or public holidays.
- 9) Prior to the first occupation of any unit hereby permitted a lighting scheme shall be submitted to the local planning authority and agreed in writing which shall comply with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No lighting shall be operated other than in accordance with the hours agreed as part of the agreed lighting scheme with the exception of any low height, low level and local security lighting which is needed during the construction phase of the development. The approved lighting scheme shall include guiding principles for advertisement lighting. The development shall be operated in accordance with the approved lighting scheme at all times.
- 10) Prior to commencement of any part of the development a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority which shall include:
  - 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 0800 and 1800 Mondays to Fridays inclusive, 0900 to 1300 Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed in writing by the local 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 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 highway for loading or unloading purposes, unless prior written agreement has been given in writing 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;

- 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) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

All construction works shall be undertaken in accordance with the approved CMP.

- 11) Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the Road and Building Layout Plan SK001 Revision 6. Where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway/drive level then the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 4.5 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.
- 12) Not to commence construction of any of the units hereby permitted nor construct more than 100 metres of access road into the site from the junction of the site access with the A375 until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the local planning authority, in consultation with Devon County Council. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy, Report No. P9687/G201/D dated June 2018. The development shall be retained in accordance with the approved details.
- 13) No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the local planning authority, in consultation with Devon County Council. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site until such time as the scheme approved under condition 12 has been approved and brought into operation.
- 14) Not to commence construction of any of the units hereby permitted nor construct more than 100 metres of access road into the site from the junction of the site access with the A375 until details of the exceedance

pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

- 15) The flood plain enhancements as described in the Flood Risk Assessment P9687/G201/D dated June 2018 prepared by Jubb Consulting contained at Appendix D.1 of the Environmental Statement prepared by PBA and submitted with the application shall be completed not later than first occupation of the development hereby approved.
- 16) No Development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
- 17) Prior to commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to the local planning authority for its approval. This shall establish site objectives and management prescriptions to deliver mitigation and enhancement measures and include provision for:
  - a) Mitigation and management of retained habitats during the pre-construction, construction and post construction phases of the development.
  - b) Creation and management of new habitats during the construction and post construction phases of the development.
  - c) Mitigation for legally protected and notable species during the pre-construction, construction and post construction phases of the development.
  - d) A bat monitoring programme for a period of five years post construction.
  - e) Provision and timing of provision for bat and bird boxes.

Once approved the pre-construction, construction and operation of the development shall proceed in accordance with the approved details of the LEMP, unless otherwise approved in writing by the local planning authority and retained thereafter in accordance with the approved details.

- 18) Prior to commencement of any part of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which shall:

- a) set out the strategy to be adopted for the movement of earth during the construction phase of the development, including where topsoil and subsoil will be stored, the height of any storage heaps and how long storage will take place for;
- b) identify the landscaping that is considered to be strategic landscaping due to its link with the development's infrastructure;
- c) identify the landscaping that is considered to be 'plot' landscaping due to its link with the particular plots on which the commercial units will be delivered; and
- d) identify the phasing of the delivery of the strategic and the plot landscaping identified above,

Once approved that CEMP shall be complied with during the construction of the development.

- 19) No development shall take place until an arboricultural method and tree protection statement showing the location of the existing trees on the site; identifying which existing trees will be removed as part of the development; describing how trees and hedges will be protected during the construction phase; and setting out detail on how cut and fill will interact with the existing retained vegetation has been submitted to and approved in writing by the local planning authority. Once approved the arboricultural method statement shall be complied with.

**END OF SCHEDULE**

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr H Mohamed Barrister instructed by Mr H C Lennox of East Devon District Council

#### Who Called:

Mr J Upfield Senior Highway Development Management Officer Devon County Council

Mr D Roberts Principal Planning Officer East Devon District Council

### FOR THE APPELLANT

Mr R Kimblin QC instructed by Mr D Richardson Partner Ashfords LLP

#### Who Called:

Mr M Grist BSc(Hons) PGDip (Highways)

Mr S Hurdwell BSc (Hons) IEng MICE (Flood Risk)

Mr P Branchflower BSc, MIAQM (Air Quality)

Mr M Barlow MSc, MIOA (Acoustics)

Dr M Cowley BA (Hons) PhD CEnv MCIEEM (Ecology)

Mr J Marchant BA (Hons) Dip TP Dip Urb Des Dip Arch Cons (Planning)

### INTERESTED PERSONS:

Mr J Loudoun (No Sidford Business Park Campaign)

Cllr M Rixson (East Devon District Council)

Mr K Hudson (Resident)

Cllr J Turner (East Devon District Council and Sidmouth Town Council)

Cllr S Hughes (East Devon District Council and Devon County Council)

Ms J Powell (Resident)

## **DOCUMENTS RECEIVED AT THE INQUIRY**

1. Opening Statement (Council), together with 2 x accompanying plans
2. Opening Statement (Appellant)
3. Updated Inquiry Programme
4. Statement of Mr J Loudon (No Sidford Business Park Campaign)
5. Video evidence from Mr J Loudon (No Sidford Business Park Campaign)
6. Statement of Cllr M Rixson (Concerns relating to the site at Two Bridges Road, Sidford)
7. Map of European Designated Sites (Appellant)
8. Updated list of suggested planning conditions
9. Itinerary for unaccompanied site visit (3 x maps)
10. Closing Statement (Council)
11. Closing Statement (Appellant)
12. Costs application on behalf of the Appellant
13. Costs submissions on behalf of the Council
14. Final agreed list of suggested planning conditions