

EAST DEVON DISTRICT COUNCIL

Minutes of a Special Meeting of the Development Management Committee held at the Seaton Town Hall, Seaton, on Tuesday 15 September 2009

- Present:** Councillors:
Paul Diviani (Chairman)
Andrew Dinnis (Vice Chairman)
- Bob Buxton
Geoff Chamberlain
Iain Chubb
Ray Franklin
Mike Green
Ann Liverton
Helen Parr
Graham Troman
Steve Wragg
- Ward Members:** Councillors:
Stephanie Jones, Jim Knight, Margaret Rogers
- Also Present:** Councillor:
Malcolm Florey, Member Champion for Business
Roger Giles
John Jeffery
- Officers:** Stephen Belli, Development Manager
Donna Best, Principal Estates Surveyor
Richard Guyatt, Consultant Solicitor
Karime Hassan, Corporate Director
Christopher Holland, Democratic Services Officer
Christopher Lane, Democratic Services Officer
Kate Little, Head of Planning and Countryside Services
Rachel Pocock, Head of Legal, Licensing and Democratic Services
Andrew Seddon, Senior Solicitor
Nick Stephen, Communications Officer
Janet Wallace, Environmental Health Officer
Mark Williams, Chief Executive
- Apologies:** Councillors:
Ray Bloxham
Derek Button
Steve Hall
Pauline Stott

The meeting commenced at 2.00pm and ended at 5.58pm

***29 Matters for Decision – Seaton Planning Applications**

Members gave consideration to the verbal representations from members of the Town and Parish Councils, the public and applicants or their agents together with the reports of the Head of Planning and Countryside Services.

Matters for Decision – Seaton Planning Applications (cont'd)

The following declaration of interest was made during consideration of applications:

Councillor / Officer	Ref.	Type of interest (action taken)	Nature of interest
Councillor Bob Buxton	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak and vote)	Councillor was a representative on the Blackdown Hills AONB Rural Partnership
Councillor Iain Chubb	09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal & Prejudicial (left chamber during discussion and voting)	Councillor was landlord of a business in the town
Councillor Paul Diviani	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak and vote)	Councillor was the Chairman of the Blackdown Hills AONB Rural Partnership and candidate for DCC Jurassic Coast Board.
Councillor Ray Franklin	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak but not vote)	Councillor was Chairman of the Seaton Regeneration Board
Councillor Mike Green	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak and vote)	Councillor owned 2 shares in the nearby tourist attraction, Beer Quarry Caves
Councillor Stephanie Jones	09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak)	Councillor owned a property which overlooked application site
Councillor Jim Knight	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak)	Councillor was a DCC representative on the Blackdown Hills AONB Rural Partnership and Jurassic Coast Board
Councillor Margaret Rogers	09/2627/MFUL, 09/0019/MFUL, 09/0557/MFUL & 09/0022/MOUT	Personal (remained in Chamber to speak)	Councillor was a member of the Seaton Regeneration Board

RESOLVED: that the applications before the Committee be determined as set out below:

SEATON TOWN
(Seaton)

08/2627/MOUT

Applicant:

Axe Riverside Company Ltd

Location:

Seaton Quay (former Racal site), Riverside Way, Seaton, Devon

Proposal:

Erection of 90 apartments (2 bedroom), new access, public quayside and flood protection.

Conservation (Natural Habitats, &C) Regulations 1994
Section 48 – Assessment of implications for European site
Screening process as to whether Appropriate Assessment is required

RESOLVED: 1) that the Council is satisfied that the proposed development is not likely to have significant effects that will harm the integrity of the site and that an appropriate assessment under the Habitats Regulations is not required.

RESOLVED: 2) **APPROVED** subject to the applicants first entering into an agreement under Section 106 of the Town and Country Planning Act as amended to secure the following:-

- 40% affordable housing either on site or as a contribution so that it can be achieved off site or elsewhere on the regeneration site.
- £162,508 recreation contribution or a contribution to the Axe Wetlands Project as set out above – Members guidance on this is sought.
- £375,000 contribution towards replacement employment facilities in the town.
- Maintenance of river side wall and future opportunities to carry out further flood risk works by other parties.
- Public access to river side and through the application site.
- No more than 400 dwellings shall be developed within the Seaton Regeneration Area without improvements to the foul drainage capacity within the Area.

And the following planning conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
(Reason – To comply with Section 91 of the Town and Country Planning Act, 1990 (as amended) and giving appropriate time for investigations and economic delivery of the proposal).
2. AO3 – 3 years for reserved matters submission.
(Standard reason).
3. For the avoidance of doubt the reserved matters shall be scale, access and landscaping with the layout and appearance subject to further detailed drawings based on the plans submitted at outline stage. The details submitted for the development hereby permitted shall relate specifically to the Environmental Statement as submitted.
(Reason - To clarify the nature and content of the reserved matters application).

4. No development shall take place until a detailed phasing plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed phasing plan unless a written variation has been submitted to and agreed in writing by the LPA.
(Reason – To ensure the development is phased in an appropriate manner).
5. Full ‘working drawings’ standard details of elevations, sections and plans provided to a scale not less than 1:100 shall be submitted and approved prior to the commencement of development.
(Reason – To allow the Local Planning Authority to assess the details of the scheme to ensure that the appearance is appropriate).
6. Prior to the commencement of development detailed drawings and sections to include the relationship of the southern end of the proposal site in context with Harbour Road, the listed Toll House and any other emerging or approved development on the Devon Dive Site and neighbouring land shall be submitted to and approved in writing by the Local Planning Authority.
(Reason - To ensure that the proposed volume of development which is developed as a reserved matter is appropriate in scale and mass and can be demonstrated as preserving or enhancing the setting of the listed building and is appropriate given the context of existing and likely development capacity of adjacent land).
7. Prior to the commencement of development full details of the design and material finish of windows including their method of opening together with all balcony details shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the details so agreed and no future changes shall take place to window styles and materials without the prior written permission of the Local Planning Authority. No other balcony constructions shall take place at any future date without the prior written permission of the LPA.
(Reason - To ensure that the design dimensions and material finish and details of balconies are appropriate and to protect the future character and appearance of the units so constructed).
8. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area).
9. All areas of new stone walls shall be constructed of natural random stone laid traditionally on its quarry bedding and pointed in a brown mortar finish recessed from the outer face of the walls. A sample panel of not less than three square metres shall be provided for inspection and written agreement by the Local Planning Authority prior to the construction of any of the new walls. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting this Order), all new stone walls, constructed in accordance with the approved drawings and the terms of this condition, shall be retained in their natural stone finish and shall not be rendered, colour washed or otherwise treated in a manner which would obscure the natural stone finish, nor shall they be demolished, either in whole or in part. All stonework to units shall be completed prior to occupation of that unit.
(Reason – To enable the Local Planning Authority to consider the details of all stonework to be constructed as part of the development hereby permitted in order to ensure that the development displays good design and is of a locally distinctive style, and to ensure that all stonework is retained in its natural stone finish).

10. Prior to development commencing a full roofing specification including the types, sizes and colours of natural slate or tiles to be used, together with the type, colour and profile of the ridge tiles shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details
(Reason - To ensure that the development displays good design practice and to allow the Local Planning Authority to assess the details of the scheme to ensure that the appearance is appropriate).
11. Prior to development commencing constructional details at a scale of 1:20 of all eaves, verges and hips shall be submitted to and approved in writing by the Local Planning Authority, together with details of any extract or flue that terminates through the roof cladding. All such extractors shall terminate through in-line slate/tile ventilators positioned on non-prominent roof slopes. The development shall thereafter be carried out in accordance with the approved details.
Reason - To ensure that the development displays good design practice and to allow the Local Planning Authority to assess the details of the scheme to ensure that the appearance is appropriate.
12. No work shall commence on site until full details of all ducts, flues, rainwater goods, vents, meter boxes and other external attachments have been first submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be retained in that form unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of the appearance of the development and the surrounding area).
13. Visibility splays shall be provided at the junctions between Riverside Way and the proposed site accesses in accordance with the Highway Authority's guidelines and submitted to and agreed in writing with the Local Planning Authority as part of the Reserved Matters application. All such works shall be completed prior to the occupation of any residential units on the site and the visibility splays shall thereafter be retained and maintained free of any structures or vegetation over 600 mm in height measured from the level of the surface of the carriageway of Riverside Way.
(Reason - To provide adequate visibility from and of emerging vehicles).
14. In accordance with the phasing plan referred to above no other part of the development hereby approved shall be commenced until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area, parking space, and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and shall after be retained for the relevant purposes at all times.
(Reason - To ensure that adequate facilities are available for the traffic attracted to the site).
15. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any highway maintained by the Local Highway Authority.
(Reason - In the interest of public safety and to prevent damage to the highway).
16. Prior to the commencement of development full details of all the proposed highways serving the site including those to be publicly adopted or privately maintained shall be submitted to and approved in writing by the Local Planning Authority. This shall include development details and any necessary infrastructure works relating to the highway from the junction between Riverside Way and the proposed development site.
(Reason - To ensure adequate visibility and vehicle and pedestrian safety and convenience).

17. No development shall take place until temporary access, construction parking, commercial vehicle loading/unloading, visibility splays, vehicle turning and access drainage and maintenance for construction traffic has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be retained for the full duration of the construction of the development or as otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that adequate facilities are available for construction traffic attracted to the site and to ensure that site debris does not detrimentally affect the wider highway network).

18. No development may take place on any part of the application site to the north of the existing northern terminus of Riverside Way until there has been submitted to the Local Planning Authority and approved by it in writing a scheme to maintain (during the development and thereafter) a suitable access route to the tram depot to the north of the application site for access on foot and for all road vehicles. Thereafter the development shall be carried out fully in accordance with the approved scheme and the access route to the tram depot shall be retained at all times

(Reason – To ensure that the Tram Company is not detrimentally affected by alterations in the adopted highway or private land and that provision of access over the adopted highway and/or private land achieves the same or improved levels of access for the Tram Company).

19. Prior to the commencement of development details of all street lighting and lighting of public and non public areas including any security lighting (and their means of operation), including lux levels shall be submitted to and agreed in writing by the Local Planning Authority. No other lighting, including any security lighting, shall be installed on the site at any future date without the prior written consent of the LPA. In addition details of any intended temporary construction lighting shall be submitted as part of the Reserved Matters application and the development carried out fully in accordance with the approved details.

(Reason - To avoid excessive light pollution and in the interests of the protection of species protected by other legislation such as bats).

20. Prior to the commencement of any part of the development the developer shall provide the following further information to the LPA in respect of protected wildlife species.

- A tree planting scheme which encourages potential bat roosting and bat cover areas.
- A street lighting scheme which demonstrates no harm to feeding corridors for bats particularly along the riverside walk. The lighting scheme shall specifically exclude any security lights affixed to the dwellings fronting the river.
- Protected bat roosting opportunities within the roof space of the dwellings which front onto the river with a minimum number of 10 roost boxes.

The details as submitted shall be fully implemented as part of the development proposals prior to the occupation of the units in line with the phasing plan as required above and maintained as such thereafter. Occupiers of any units with bat roosting boxes shall be advised of the statutory protection provisions under the Wildlife and Countryside Act.

(Reason – To ensure the protection of the River Axe SAC/SSSI wildlife interests).

21. Prior to the commencement of development approved by this planning permission the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the Local Planning Authority:-

- A site investigation scheme, based on the Jubb report received 23 September 2008 to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The site investigation results and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved. If during development contamination not previously identified is found to be present at the site, then no further development, (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an amendment of the Method Statement detailing how this unsuspected contamination shall be dealt with.

The development shall thereafter be carried out fully in accordance with the approved scheme.

(Reason - To ensure that ground conditions and contamination are fully assessed and to ensure that development does not result in any environmental health risks and to protect controlled waters).

22. Prior to development commencing full construction details and proposed materials and external finishes of the flood defence walls and quayside, and any appropriate street furniture as may be necessary shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
(Reason - To ensure that the development displays good design practice, is accessible to all members of the community, and to ensure that details are acceptable to the Environment Agency).
23. Prior to the commencement of development full details shall be submitted of the construction methods and materials for the termination points of the flood defence wall. This shall include markers on the wall demarcating the area within which it is acknowledged the Environment Agency may at some future point seek to extend flood defence or hinge/operate flood defence gates. The Development shall thereafter be carried out in accordance with the approved details.
(Reason - To ensure there is an appropriate springing point for structures required for future flood defence).
24. Prior to the commencement of development details shall be submitted to the LPA for approval of the northern end of the defence wall to indicate how the Environment Agency may construct and connect an extension to the flood defence in a northerly and/or westerly direction. That part of the development shall thereafter be carried out in accordance with the approved details so as to facilitate any proposed extension of the flood defence wall.
(Reason - To ensure there is an appropriate springing point for structures required for future flood defence).
25. All flood defence walls hereby permitted shall have been completed in full accordance with the approved plans and phasing plan prior to the occupation of any dwelling hereby approved. Thereafter the approved flood defence walls shall be maintained in accordance with the approved details.
(Reason - To ensure the satisfactory completion of the development in the interests of protecting the appearance of the area and neighbour privacy).
26. Prior to the commencement of development full details of hard landscaping for all public and privately accessible open spaces, including any necessary street furniture such as benches and litter bins, lighting standards, refuse and recycling bins and storage areas etc. shall be submitted to and approved in writing by the Local Planning Authority.

- The agreed landscaping proposals shall be completed in accordance with the detailed phasing scheme referred to above unless agreed with the prior written approval of the Local Planning Authority. The landscaping scheme shall be carried out in accordance with the approved proposals and thereafter maintained to the satisfaction of the LPA.
(Reason - To ensure that an appropriate landscaping strategy is implemented and achieves an accessible and attractive series of open spaces for private and public use).
27. Prior to the commencement of development, a full sample of materials relating to all hard landscaped areas shall be provided to and approved in writing by the Local Planning Authority. The Development shall thereafter be carried out in accordance with the approved details.
(Reason - To ensure that the selected materials are appropriate in context with the proposed buildings, surrounding environments and result in an attractive, safe and environmentally responsible scheme).
28. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, together with a phasing plan, which shall include indications of all existing trees and hedgerows on the site and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding, turfing or hard surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.
(Reason - To ensure the provision of an appropriate landscaping scheme in the interests of the visual amenities of the locality and to assimilate the development into its surroundings).
29. No development shall take place until a written scheme of investigation to undertake a programme of archaeological work has been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
(Reason - To ensure an appropriate record is made of archaeological evidence that may be affected by development).
30. No development shall take place prior to the submission and written approval by the local Planning Authority of a method statement regarding the use of quiet piling and construction techniques. The development shall be carried out fully in accordance with the scheme as approved by the Local Planning Authority.
(Reason - To protect the amenity of local residents and users of the River Axe Estuary).
31. Prior to the commencement of development a scheme to demonstrate that internal noise levels within the residential units will conform to the 'good' design range identified by BS 8233 1999:- Sound Insulation and Noise Reduction for Builders/Code of Practice shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained thereafter.
(Reason - To ensure that sound insulation protects the amenity of existing and future residents and occupiers of the proposed development and nearby buildings).
32. No construction works shall be carried out before 07.00 and after 18.00 Mondays to Fridays, 07.00 to 13.00 on Saturdays with no construction works or development carried out on Sundays or on Bank Holidays, except for any emergency works that may need to be carried out.
(Reason - To ensure that construction noise and traffic does not unacceptably affect nearby occupiers and impact on the Seaton Tourism trade).

33. Prior to any works taking place to the River Axe boundary wall the works shall be the subject of further details to be submitted to and agreed in writing with the LPA, including the timing of such works such as to avoid any adverse impact on migratory fish.
(Reason – In the interests of conserving protected wildlife species).
34. No demolition, piling works or works to break up concrete on site may take place until the LPA has approved in writing schemes to demonstrate that the applicant shall use processes that shall least disturbance in terms of noise and vibration to neighbouring sensitive receptors. The relevant works and the development shall thereafter be carried out fully in accordance with the approved details to the satisfaction of the LPA.
(Reason – To prevent disturbance to sensitive receptors).
35. Development may not commence until a programme of site clearance and vegetation clearance indicating that such works will be carried out outside of the breeding bird season wherever possible has been submitted to and approved in writing by the LPA. The process shall include a nesting bird survey being undertaken prior to commencement of any demolition or clearance works on site. The development shall thereafter be carried out entirely in accordance with the approved details.
(Reason – To minimise the impacts of the development on breeding birds).
36. No development may commence until a scheme for the control or eradication of Japanese Knotweed if any is found on site has been agreed by the LPA in consultation with the Environment Agency. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – To control and eradicate Japanese knotweed on site).
37. Prior to commencement of the development hereby approved a scheme for the minimisation of impacts on air quality arising from the construction phase (as described in paragraph the applicant's environmental statement) shall be submitted to the LPA. No development may commence until the submitted scheme has been approved in writing by the LPA. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – To minimise the impacts on air quality of the development).
38. No development shall take place until a scheme for construction traffic visiting the site including the routes to be used, times of deliveries, and daily number of lorry movements shall be submitted to and agreed in writing by the Local Planning Authority. The development shall proceed in accordance with the written scheme unless any variations are otherwise agreed in writing beforehand with the Local Planning Authority.
(Reason – To minimise the impact on local residents who live outside the site).
39. No development shall take place until a scheme of construction hours of work on the site has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall indicate the days and hours of work intended. In any event no work shall take place on the site except for any emergency works on Sundays or Bank Holidays. The development shall proceed in accordance with the scheme as may be agreed.
(Reason – To minimise the impact on local residents who live outside the site).

RESOLVED: 3) that the Head of Planning and Countryside be given delegated powers to amend planning conditions and any clauses of the Section 106 Agreement as is deemed necessary

RESOLVED: 4) that the Head of Planning and Countryside be given delegated authority to take forward negotiations on S106 and Development Manager to assist in any changes needed to planning conditions.

Reasons for approval

- The proposal complies with the Devon Structure Plan 2001-2016 Policies as noted above.
 - The proposal complies with the East Devon Local Plan 1995-2011 Policies as noted above.
 - The proposal does not significantly affect the privacy or amenity of neighbouring properties.
 - The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.
 - The proposal does no harm wildlife interest.
 - The proposal does not harm an identified archaeological site or deposit.
 - The proposal does not harm the conservation objectives of an SSSI, County Wildlife Site or Local Nature Reserve.
 - The proposal is contained within the defined built-up area boundary of the settlement.
 - The proposal does not cause a significant flood risk.
 - The access to serve the proposal does not prejudice highway safety.
 - The proposal includes the use of previously developed land and is planned at an appropriate density taking into account the character of the site and area.
 - The proposal would not generate a level of noise that would unreasonably affect the amenity of neighbouring properties.
 - The proposal complies with requirements in terms of re-using potentially contaminated land.
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Conservation (Natural Habitats, &C.) Regulations 1994
Section 48 – Assessment of implications for European site
Screening process as to whether Appropriate Assessment is required

09/0019/MFUL – SOUTHERN STORE

RESOLVED: 1)

that the Council is satisfied that the proposed development is not likely to have significant effects that will harm the integrity of the three sites addressed and that an appropriate assessment under the Habitats Regulations is not required.

09/0022/MOUT – SOUTHERN STORE AND ASSOCIATED DEVELOPMENT (OUTLINE)

RESOLVED: 2)

that the Council is satisfied that the proposed development is not likely to have significant effects that will harm the integrity of the three sites addressed and that an appropriate assessment under the Habitats Regulations is not required.

09/0557/MFUL – NORTHERN STORE

RESOLVED: 3)

that the Council is satisfied that the proposed development is not likely to have significant effects that will harm the integrity of the three sites addressed and that an appropriate assessment under the Habitats Regulations is not required.

SEATON TOWN
(Seaton)

09/0019/MFUL

Applicant: Tesco Stores Limited

Location: Land North of Harbour Road, Seaton, Devon – ‘The Southern Supermarket’

Proposal: Erection of retail store (5,996 sq m gross) with petrol filling station, with associated car parking, pedestrian and vehicular access, and landscaping.

09/0019/MFUL - Southern Store

Erection of retail store (5,996 sq m gross) with petrol filling station, with associated car parking, pedestrian and vehicular access, and landscaping.

RESOLVED: 1) **APPROVED** subject to the applicants first entering into an agreement under Section 106 of the Town and Country Planning Act as amended to secure the following:-

1. To secure through the appropriate legal mechanism for the Visitor Centre contribution of £1.7 million - the money to be available prior to the development commencing.
2. Prior to the opening of the retail store, the whole site shown on Plan X (which will include the visitor centre site) shall be filled to the ground levels required by the Environment Agency to permit redevelopment (to be specified in detail) principally via a pipe system from sea to land to secure a minimum of 75% of the fill required which shall previously have secured the benefit of planning permission and all other necessary consents. The area of filled land not immediately required for development shall be maintained in a clean and tidy condition to the satisfaction of the Local Planning Authority.
3. The payment of £45,000 contribution for the employment of a Town Centre Manager for a period of 3 years, monies to be paid prior to the commencement of the development.
4. The payment of [£] as the public transport contribution.
5. To put in place the necessary consent, and the payment, for the required off-site highway works as shown on Plan X.
6. The submission to, and agreement of, EDDC of an open space (including any hard surface public realm areas) management plan to include phasing and the putting in place of the necessary mechanisms to secure maintenance to an acceptable standard in perpetuity.
7. To enter into an agreement to permit public access to all areas of maintained open space (specify) at all reasonable times.
8. The provision of a sustainability strategy and its implementation shall be secured for the commercial and residential development. The retail store to achieve BREEAM Very Good.
9. There will be a public art contribution [£] to be paid at the appropriate trigger point.
10. The provision of a footway and cycle plan to provide all the necessary links from the development to the Sustrans route and the implementation of the necessary infrastructure works.

Also there will be a need to cover the following topics either through a S106 or by way of an appropriate planning condition

- To investigate the opportunity to secure highway improvements in Axmouth village to mitigate against the impact of HGVs passing through the village during construction.

AND THE FOLLOWING CONDITIONS

Time limits

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990).

Phasing and Condition Precedent/Grampian conditions

2. No development shall take place until a detailed phasing plan including all necessary works to implement the development has been submitted to and agreed in writing with the Local Planning Authority (hereinafter referred to as LPA). The development shall not be carried out other than in strict accordance with the Phasing Plan as may be agreed unless otherwise agreed in writing with the LPA.
(Reason – To ensure the development proceeds in a properly planned way and to limit any unacceptable impact on the locality).
3. The retail store hereby approved shall not be opened for business until such time as the new access to the Underfleet from the south western corner of the application site [including all the public realm works (including any public art element to be agreed) as shown on the approved plans AP104-D (and as may be supplemented by more detailed plans) has been fully completed and is open for public use. The new access shall thereafter be maintained to the satisfaction of the LPA and kept open to the public at all times.
(Reason – To ensure that the essential link between the store and the town centre is created and available for use).
4. No more than 40% of the fill material required for raising the surface level of the application site shall be brought to the application site by road. No development shall take place until the details of the transport routes, any necessary mitigation measures, method of transfer of fill and details of the fill process have been submitted to and agreed in writing with the LPA. The methodology shall include a method of logging all lorries entering and leaving the site (including their routes to and from the site) together with the volume and type of fill materials brought to the site in each lorry load. Such records shall be available for inspection by officers of the Council at all reasonable times. In addition the exact quantum of fill material and type of material to be used shall be submitted to and agreed in writing with the LPA prior to any materials being brought to the site. The development and filling of the site shall thereafter be carried out in accordance with the documents as approved by the LPA.
(Reason – To ensure that any development is carried out in accordance with the Construction and Environment Management Plan and to limit the impact of the fill process on the local environment).
5. No development shall be shall take place, or fill materials brought to the site, until a scheme/application for the filling of the application site and the Regeneration Area has been submitted to and approved in writing by the LPA. The details shall include:
 - full and exact details of the transport routes and methodology of transfer of fill from its sea borne source to the site; and details of the transportation of any fill material from land sources for top dressing purposes

- details of the phasing of the operation and the type of fill to be used.
- A timetable for the fill operations.
- Details of the processes for mitigating the effects of noise vibration and dust during the fill period, to fully reflect the proposed mitigation measures proposed in the Applicant's environmental statement.
- A programme for bunding and other measures to prevent pollution by way of run off from the site during the fill works.
- A method statement to demonstrate that a minimum of 60% of fill for the application site material shall come on to the site from the sea.

The filling of the application site and the Regeneration Area shall be carried out in strictly in accordance with the approved details. The development hereby approved shall not be occupied until the works as may be approved have been carried out in accordance with the Phasing Plan referred to above.

(Reason – To protect interests of acknowledged importance).

6. No development shall take place until a revised Construction and Environment Management Plan (CEMP) (to include schemes for the suppression of dust and air quality measuring and mitigation (prepared in accordance with the provisions of the applicant's environmental statement)) has been submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the CEMP as may be agreed unless otherwise agreed in writing with the LPA.

(Reason – To ameliorate and mitigate against the impact of the development on the local community).

7. No development shall take place until an updated noise management plan (including times and days of construction, and the use of quiet piling techniques) and prepared in accordance with the applicant's environmental statement has been submitted to and agreed in writing the LPA. The development shall not proceed other than in strict accordance with the scheme as may be agreed.

(Reason – In the interests of the amenities of local residents who live near the site and local wildlife interests).

Highways

8. No development shall commence until details of the new junction onto Harbour Road, (including all off site highway works), access roads within the site, visibility splays, and of the layout, construction and surfacing of the proposed access, internal driveways, parking areas for the store and provision for turning vehicles within each phase of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the scheme as may be permitted unless otherwise agreed in writing with the LPA.

(Reason - In the interests of highway safety).

9. No occupation of any building on the site may occur until the access road junction with the county highway, including the visibility splays, has been completed and made available for use in accordance with the plans hereby permitted. The access thereafter shall remain open to the public at all times until the access is dedicated as highway.

(Reason - In the interests of highway safety).

10. All visibility splays as may be approved shall be kept permanently clear of all obstructions greater than 600 mm high.
(Reason - In the interests of highway safety).
11. Prior to the opening of the store the developers shall submit for approval of the LPA a Travel Plan which shall be approved by the LPA prior to occupation of that building.

The actual scope and provisions of any Travel Plan shall be agreed in writing with the LPA. Following the agreement of the Travel Plan the owner of the site shall upon the reasonable request of the LPA from time to time and no more than once a year provide details of the actions taken pursuant to this condition.

(Reason – In the interests of sustainable transport objectives).

Archaeology

12. 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.

(Reason - To ensure that an appropriate record is made of archaeological evidence that may be affected by the development).

Contaminated Land

13. a) Site Characterisation

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

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:-
 - human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - ground waters 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*'.

b) 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 must 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.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than 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 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.

d) 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 must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 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 condition 3.

e) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

(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).

Lighting scheme

14. Prior to the commencement of development a detailed lighting scheme (including lux levels and means and times of operation for permanent lighting columns, bollard lights and any security lighting shall be submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the lighting scheme as may be agreed and no further lighting columns, bollard lights or security lights shall be erected within the site or fixed to buildings or land without the prior written consent of the LPA. All lighting shall be operated in accordance with the lighting scheme as may be agreed.
(Reason – In the interests of preventing light pollution and the protection of wildlife corridors).

Landscaping

15. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority. The landscaping scheme shall include the details of proposals to improve the wildlife corridor along the northern boundary of the site, including the planting of native species trees. No development save for landscaping or pathways(which shall be unlit) may take place in the area shown green on the northern boundary of the development site on plan 07198 AP 200.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area, and to foster wildlife interests).
16. A landscape (soft and hard landscaped areas) management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place. The proposals shall be carried out as approved for the full duration of the plan.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area).

Store restrictions

17. Prior to the opening of the store and petrol filling station details of the times of operation including times for service deliveries and operation of the grocery delivery and other on line delivery services shall be submitted to and agreed in writing with the LPA. The store and associated business elements shall not operate otherwise than in strict accordance with that agreement unless otherwise agreed in writing with the LPA.
(Reason – In the interests of local residential amenities).
18. Notwithstanding the provisions of the Town and Country Planning Act (as amended) and the Town and Country General Permitted Development Order 1995 (as amended), there shall be no insertion of any mezzanine floor within the building (for any purpose) at any future date without a further grant of planning permission. For the avoidance of doubt the store hereby permitted does not include any mezzanine or internal floor above ground level.

(Reason – The LPA considers the size of the store is at its maximum without impacting adversely on the viability and vitality of Seaton Town Centre. Any increase in retail floor space may have an adverse impact which the LPA wishes to guard against).

19. Any coffee shop and restaurant that forms part of the store hereby permitted shall only operate during the times when the store is open to the public and shall not operate independently of the store.

(Reason – The LPA considers that a free standing coffee shop and restaurant may adversely impact on the vitality and viability of Seaton Town centre).

Materials and design

20. Prior to the commencement of development, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls, roofs and ground surface materials of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the LPA.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area).

21. Prior to the commencement of development detailed 'working drawings' of the retail store to include elevations and floor plans shall be submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the details as may be agreed unless otherwise agreed in writing with the LPA. A full sustainability audit of the building and intended BREEAM rating shall also be submitted for approval. The building shall be completed in accordance with that approval unless otherwise agreed in writing with the LPA.

(Reason – To ensure the LPA retains control over detailed design matters in the interests of the visual appearance of the building and the character of the area).

22. Prior to the commencement of development full details including construction details of all boundary and retaining walls and fences including the intended external finishes of those features shall be submitted to and agreed in writing with the LPA. The development shall thereafter be carried out in accordance with the approved details.

(Reason – In the interests of the visual appearance of the development and the character of the area).

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site other than those expressly permitted by this permission or by a condition of planning permission without the further prior written consent of the LPA.

(Reason – In the interests of controlling future walls and other features in the interests of the appearance of the development).

Flood Risk

24. The development shall not proceed other than in strict accordance with the Flood Risk Assessment received 3 February 2009.

(Reason – To ensure the development complies with the guidance as set out in PPS25).

Limits on Development

25. The retail element of the application hereby permitted shall not exceed [5,996] m2 gross floor area and shall not exceed 8.6 metres in height.
(Reason - This development is EIA development and the visual impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the building heights indicated in this condition).
26. No more than 427 car parking spaces shall be provided in the principal car park for the retail element of the development hereby permitted.
(Reason - This development is EIA development and the impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the car parking numbers indicated in this condition).

General

27. Notwithstanding the provisions of conditions above no development may commence until the LPA in consultation with Natural England has approved in writing a scheme for the bunding of all fuel tanks, fuelling areas, collection ditches, filters to intercept silt and sediment and hydrocarbon interceptors on site. The development shall then be carried out fully in accordance with the approved scheme and maintained to the satisfaction of the LPA.
(Reason – To prevent pollution to adjoining watercourses).
28. No demolition, piling works or works to break up concrete on site may take place until the LPA has approved in writing schemes to demonstrate that the applicant shall use processes that shall least disturbance in terms of noise and vibration to neighbouring sensitive receptors. The relevant works and the development shall thereafter be carried out fully in accordance with the approved details to the satisfaction of the LPA.
(Reason – To prevent disturbance to sensitive receptors).
29. Development may not commence until a programme of demolition and vegetation clearance indicating that such works will be carried out outside of the breeding bird process shall include a nesting bird survey being undertaken prior to commencement of any demolition or clearance works on site. The development shall thereafter be carried out entirely in accordance with the approved details.
(Reason – To minimise the impacts of the development on breeding birds).
30. No development may commence until a scheme for the control or eradication of Japanese Knotweed on site has been agreed by the LPA in consultation with the Environment Agency. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – In the interests of eradicating an invasive and damaging plant species).
31. Prior to commencement of the development hereby approved a scheme for the minimisation of impacts on air quality arising from the construction phase (as described in paragraph 12.97 of the applicant's environmental statement) shall be submitted to the LPA. No development may commence until the submitted scheme has been approved in writing by the LPA. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – To minimise the impacts on air quality of the development).
32. Development may not commence until a scheme detailing the measures (including one way fences and continued management of habitats) for the protection of reptiles has been approved in writing by the LPA. The detail submitted shall include a capture and translocation programme to be implemented prior to development commencing and a reptile barrier fence around all areas of suitable habitat and appropriate artificial refuges laid out within the capture zone. The scheme shall provide that reptiles that are caught will be moved to an undisturbed and retained area of suitable habitat nearby that has previously been approved in writing by the LPA as a suitable site for translocation.

Any translocation may take place only between April and September of any year. The development shall thereafter be carried out in entirely in accordance with the approved details to the satisfaction of the LPA.

(Reason –To minimise impacts on reptile populations within the site).

33. No development may commence until the LPA in consultation with Natural England has approved in writing a scheme for the bunding of the site during the fill operations to prevent the uncontrolled discharge from the site of saline water silt and sediment. The scheme shall demonstrate that all waters used in the fill operations to pump fill materials to the site shall be returned to the sea following appropriate onsite treatment and in accordance with a scheme previously approved by the LPA in consultation with Natural England. The development shall then be carried out fully in accordance with the approved scheme and maintained to the satisfaction of the LPA.

(Reason – To prevent pollution to adjoining watercourses).

RESOLVED: 2) that the Head of Planning and Countryside be given delegated powers to amend planning conditions and any clauses of the Section 106 Agreement as is deemed necessary

RESOLVED: 3) that the Head of Planning and Countryside be given delegated authority to take forward negotiations on S106 and Development Manager to assist in any changes needed to planning conditions.

Reasons for approval

The proposal is considered to be in general compliance with the policies of the adopted Devon Structure Plan in particular but not exclusively SH1,ST1, ST4, CO6, C13, SH2.

The proposal is considered to be in general compliance with the policies of the adopted East Devon Local Plan in particular but not exclusively SE1,S7,EN5, EN15, EN16, EN20, EN21, SH1, SH3, RE2, TA1,TA7

SEATON TOWN
(Seaton)

09/0557/MFUL

Applicant: Sainsbury's Supermarkets Ltd & Modern Electric Tramways Ltd

Location: The Underfleet, Seaton, Devon – 'The Northern Supermarket'

Proposal: Mixed use development including food store(4,747sq m. Gross), Seaton and Jurassic Heritage Coast visitor centre (3,313sq.m. gross) skate park, play area, redeveloped tram terminus (413 sq.m. gross), cycle hub(264 sq. M. Gross), public square, public car park and other associated works..

Application 09/0557/MFUL – The Northern Store

Mixed use development including food store (4,747sq m. Gross), Seaton and Jurassic Heritage Coast visitor centre (3,313sq.m. gross) skate park, play area, redeveloped tram terminus (413 sq.m. gross), cycle hub (264 sq. M. Gross), public square, public car park and other associated works.

RESOLVED: **REFUSED** for the following reasons:

1. The proposed retail development is located on a site outside the Town Centre as defined in the East Devon Local Plan. Consequently the proposal fails to meet the sequential test as set out in PPS6, RPG10, Policy SH1 of the Devon Structure Plan and Policy SH3 of the East Devon Local Plan, given that the application site the subject of application 09/0019/MFUL is the in principle East Devon District Council adopted Local Plan preferred location for retail development within Seaton town centre. In addition the proposal is also out of accord with the adopted Seaton Development Brief. As a result, the application cannot be preferred in overall retail policy terms above the location of the supermarket shown in application 09/0019/MFUL.
2. The proposal does not accord with Policy LSE1 of the East Devon Local Plan which requires individual schemes and planning proposals within the Seaton Regeneration Area to accord with the principles established for a comprehensive scheme in the adopted Seaton Development Brief. The site is not allocated for retail development in the Development Brief which shows the site being used for leisure uses. Similarly the East Devon Local Plan identifies the site for recreation purposes. The redevelopment principle of building on existing leisure hubs is negated by the proposal which does not provide sufficient and acceptable compensatory provision elsewhere in the near vicinity. It is considered that the loss of this important open space used for recreational purposes in this location is unacceptable in that it already serves an important role at present, and an even more important role in the future in servicing the proposed residential development on the remainder of the regeneration site. The site at present fulfils an important role in recreational terms for those local residents who live in the central part of Seaton. Its loss would be contrary therefore to principles contained in the Development Brief and Policy RE1 of the East Devon Local Plan. Neither does the proposal in any meaningful way replace the large picnic/amenity area to the east of the current car park. Its loss would also be contrary to Policy RE1 which seeks to retain such areas or properly compensate for them when they are lost as part of any development.

3. The proposals include a new basement car parking facility but there is a lack of clarity as to how this would work and be managed in practice and maintained over the long term. Concerns are raised as to the loss of the existing Council car park which is a well used facility vital to the needs of visitors to the town. There is a lack of clarity in respect of temporary car parking during construction works, in particular the location and extent of any such temporary parking and whether or not this would be sufficient to meet the needs of the town. Given the works will extend over a lengthy period which will include the main tourism season concerns are raised as to the impact of the proposal on the town's tourism industry. The proposal is therefore considered to be contrary to Policy LSE1 of the East Devon Local Plan which 'inter alia' seeks to preserve and wherever possible enhance tourism potential for the town. In addition there is no current mechanism in place through a Section 106 obligation to secure temporary car parking. It would be considered unreasonable to impose a planning condition seeking agreement over this issue as the applicant has no control or interest in the land.

 4. There is a lack of clarity as to how the suggested benefits as set out in the application and the applicant's Heads of Terms can be fully realised without the benefit of an agreement under Section 106 of the Town and Country Planning Act (as amended). The applicants do not own any of the land the subject of the application site and are not in a position to enter into an agreement or submit a Unilateral Undertaking. The suggested mechanism of imposing a planning condition requiring the developer to enter into an agreement at a later date is considered to be unreasonable and contrary to the advice as set out in Circular 11/95 (Use of conditions in planning permission) and Circular 05/2005 (Planning Obligations).
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SEATON TOWN
(Seaton)

09/0022/MOUT

Applicant:

Tesco Stores Limited

Location:

Land North of Harbour Road, Seaton, Devon

Proposal:

Redevelopment of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access.

09/0022/MOUT – Southern store and residential development (outline)

Redevelopment of land to include housing, tourism, new public realm, petrol filling station, hotel, retail development with public open space and access.

RESOLVED:

1) **APPROVE** subject to the applicants first entering into an agreement under Section 106 of the Town and Country Planning Act as amended to secure the following:-

1. To secure through the appropriate legal mechanism for the Visitor Centre contribution of £1.7m – the money to be available prior to the development commencing.
2. The provision of affordable housing at a minimum of 25%, but including a mechanism in place to require a new independent viability exercise prior to each Residential Phase being developed, to re-assess the appropriate percentage level required by the Council for the delivery of affordable housing; and to be of a tenure, size and mix appropriate to the evidenced need of Seaton at that time. The standard nomination to affordable housing clauses.
3. To pay the education infrastructure contribution of [£] at the appropriate trigger point (this infrastructure requirement will not be required to apply to affordable housing).
4. To pay the health care contribution of [£] to be used to upgrade medical facilities in Seaton.
5. Provision of Footpath Link between the Retail store and the Underfleet/Harbour Road junction, together with provision for its ongoing maintenance by the applicant
6. Prior to the opening of the retail store, the whole site shown on Plan X (which will include the visitor centre site) shall be filled to the ground levels required by the Environment Agency to permit redevelopment (to be specified in detail) principally via a piped system from a ship to land to secure a minimum of 75% of the fill required which (shall previously have secured the benefit of planning permission and all other necessary consents). The area of filled land not immediately required for development shall be maintained in a clean and tidy condition to the satisfaction of the Local Planning Authority.
7. The payment of £45,000 contribution for the employment of a Town Centre Manager for a period of 3 years, monies to be paid prior to the commencement of the development.
8. Payment of a contribution of [£] towards the provision of playing fields on the outskirts of Seaton, prior to the occupation of x residential units.
9. The payment of [£] as the public transport contribution.
10. To put in place the necessary consent, and the payment, for the required off-site highway works as shown on Plan X.

11. The submission to, and agreement of, EDDC of an open space (including any hard surface public realm areas and play area) management plan, to include phasing and the putting in place of the necessary mechanisms to secure maintenance to an acceptable standard in perpetuity.
12. To enter into an agreement to permit public access to all areas of maintained open space within the development site at all reasonable times.
13. Prior to the occupation of more than 400 residential units (or the equivalent) within the wider Seaton Regeneration Area (but including the application site) a sewerage capacity study shall be undertaken to establish the capacity for further units and the cost of the necessary works, with the necessary works being completed prior to the occupation of more than 400 units.
14. The provision of a sustainability strategy and its implementation shall be secured for the commercial and residential development. The retail store to achieve minimum BREEAM Very Good and the residential units a minimum code rating of level 3.
15. There will be a public art contribution [£] to be paid at the appropriate trigger point.
16. The provision of a footway and cycle plan to provide all the necessary links from the development to the Sustrans route and within the site.
17. Implementation of the necessary infrastructure works, including the junction to Harbour Road prior to occupation of any part of the development.

All financial contributions will be subject to indexation.

Also there will be a need to cover the following topics either through a S106 or by way of an appropriate planning condition

- Provision of a Travel Plan particularly in relation to the commercial elements of the development
- Car Parking management plan to ensure the supermarket car park can be used by visitors as well as users of the store – the applicants confirm this is their intention
- To investigate the opportunity to secure highway improvements in Axmouth village to mitigate against the impact of HGVs passing through the village during construction

and the following planning conditions

Time limits

1. 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.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990).
2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved).

3. 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.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990).

Phasing and Condition Precedent/Grampian conditions

4. No development shall take place until a detailed phasing plan including all necessary works to implement the development has been submitted to and agreed in writing with the Local Planning Authority (hereinafter referred to as LPA). The development shall not be carried out other than in strict accordance with the Phasing Plan as may be agreed unless otherwise agreed in writing with the LPA.
(Reason – To ensure the development proceeds in a properly planned way and to limit any unacceptable impact on the locality).
5. The retail store hereby approved shall not be opened for business until such time as the new access to the Underfleet from the south western corner of the application site [including all the public realm works (including any public art element to be agreed) as shown on the approved plans AP104-D (and as may be supplemented by more detailed plans) has been fully completed and is open for public use. The new access shall thereafter be maintained to the satisfaction of the LPA and kept open to the public at all times.
(Reason – To ensure that the essential link between the store and the town centre is created and available for use).
6. No more than 40% of the fill material required for raising the surface level of the application site shall be brought to the application site by road. No development shall take place until the details of the transport routes, any necessary mitigation measures, method of transfer of fill and details of the fill process have been submitted to and agreed in writing with the LPA. The methodology shall include a method of logging all lorries entering and leaving the site (including their routes to and from the site) together with the volume and type of fill materials brought to the site in each lorry load. Such records shall be available for inspection by officers of the Council at all reasonable times. In addition the exact quantum of fill material and type of material to be used shall be submitted to and agreed in writing with the LPA prior to any materials being brought to the site. The development and filling of the site shall thereafter be carried out in accordance with the documents as approved by the LPA.
(Reason – To ensure that any development is carried out in accordance with the Construction and Environment Management Plan and to limit the impact of the fill process on the local environment).
7. No development shall be shall take place, or fill materials brought to the site, until a scheme/application for the filling of the application site and the Regeneration Area has been submitted to and approved in writing by the LPA. The details shall include:
- full and exact details of the transport routes and methodology of transfer of fill from its sea borne source to the site; and details of the transportation of any fill material from land sources for top dressing purposes.
 - details of the phasing of the operation and the type of fill to be used.
 - A timetable for the fill operations.
 - Details of the processes for mitigating the effects of noise vibration and dust during the fill period, to fully reflect the proposed mitigation measures proposed in the Applicant's environmental statement.

- A programme for bunding and other measures to prevent pollution by way of run off from the site during the fill works.
- A method statement to demonstrate that a minimum of 60% of fill for the application site material shall come on to the site from the sea.

The filling of the application site and the Regeneration Area shall be carried out in strictly in accordance with the approved details. The development hereby approved shall not be occupied until the works as may be approved have been carried out in accordance with the Phasing Plan referred to above.

(Reason – To protect interests of acknowledged importance).

8. No development shall take place until a revised Construction and Environment Management Plan (CEMP) (to include schemes for the suppression of dust and air quality measuring and mitigation (prepared in accordance with the provisions of the applicant's environmental statement)) has been submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the CEMP as may be agreed unless otherwise agreed in writing with the LPA.

(Reason – To ameliorate and mitigate against the impact of the development on the local community).

9. No development shall take place until an updated noise management plan (including times and days of construction, and the use of quite piling techniques) and prepared in accordance with the applicant's environmental statement has been submitted to and agreed in writing the LPA. The development shall not proceed other than in strict accordance with the scheme as may be agreed.

(Reason – In the interests of the amenities of local residents who live near the site and local wildlife interests).

Highways

10. No development shall commence until details of the new junction onto Harbour Road, (including all off site highway works), access roads within the site, visibility splays, and of the layout, construction and surfacing of the proposed access, internal driveways, parking areas for the store and provision for turning vehicles within each phase of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the scheme as may be permitted unless otherwise agreed in writing with the LPA.

(Reason - In the interests of highway safety).

11. No development shall take place until an updated noise management plan (including times and days of construction, and the use of quiet piling techniques and prepared in accordance with the provisions of the applicant's environmental statement)) has been submitted to and agreed in writing the LPA. The development shall not proceed other than in strict accordance with the scheme as may be agreed.

(Reason – To ensure an adequate drainage scheme is in place to serve the development).

12. No occupation of any building on the site may occur until the access road junction with the county highway, including the visibility splays, has been completed and made available for use in accordance with the plans hereby permitted. The access thereafter shall remain open to the public at all times until the access is dedicated as highway.

(Reason - In the interests of highway safety).

13. All visibility splays as may be approved shall be kept permanently clear of all obstructions greater than 600 mm high.
(Reason - In the interests of highway safety).
14. Upon the submission of detailed applications for buildings that meet the following criteria the developers shall submit for approval of the LPA a Travel Plan which shall be approved by the LPA prior to occupation of that building.
- Residential buildings
 - Hotel or holiday accommodation buildings
 - Supermarket and retail premises

The actual scope and provisions of any Travel Plan shall be agreed in writing with the LPA. Following the agreement of the Travel Plan the owner of the site shall upon the reasonable request of the LPA from time to time and no more than once a year provide details of the actions taken pursuant to this condition.

(Reason – In the interests of sustainable transport objectives).

Archaeology

15. 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.
(Reason - To ensure that an appropriate record is made of archaeological evidence that may be affected by the development).

Contaminated Land

16. a) Site Characterisation

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

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:-
 - human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - ground waters 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'.

b) 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 must 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.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than 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 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.

d) 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 must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 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 condition 3.

e) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

(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).

Lighting scheme

17. Prior to the commencement of development a detailed lighting scheme (including lux levels and means and times of operation for permanent lighting columns, bollard lights and any security lighting shall be submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the lighting scheme as may be agreed and no further lighting columns, bollard lights or security lights shall be erected within the site or fixed to buildings or land without the prior written consent of the LPA. All lighting shall be operated in accordance with the lighting scheme as may be agreed.
(Reason – In the interests of preventing light pollution and the protection of wildlife corridors)

Landscaping

18. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority. The landscaping scheme shall include the details of proposals to improve the wildlife corridor along the northern boundary of the site, including the planting of native species trees. No development save for landscaping or pathways(which shall be unlit) may take place in the area shown green on the northern boundary of the development site on plan 07198 AP 200.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area, and to foster wildlife interests).
19. A landscape (soft and hard landscaped areas) management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place. The proposals shall be carried out as approved for the full duration of the plan.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area).

Store restrictions

20. Prior to the opening of the store and petrol filling station details of the times of operation including times for service deliveries and operation of the grocery delivery and other on line delivery services shall be submitted to and agreed in writing with the LPA. The store and associated business elements shall not operate otherwise than in strict accordance with that agreement unless otherwise agreed in writing with the LPA.
(Reason – In the interests of local residential amenities).
21. Notwithstanding the provisions of the Town and Country Planning Act (as amended) and the Town and Country General Permitted Development Order 1995 (as amended), there shall be no insertion of any mezzanine floor within the building (for any purpose) at any future date

without a further grant of planning permission. For the avoidance of doubt the store hereby permitted does not include any mezzanine or internal floor above ground level.

(Reason – The LPA considers the size of the store is at its maximum without impacting adversely on the viability and vitality of Seaton Town Centre. Any increase in retail floor space may have an adverse impact which the LPA wishes to guard against).

22. Any coffee shop and restaurant that forms part of the store hereby permitted shall only operate during the times when the store is open to the public and shall not operate independently of the store.

(Reason – The LPA considers that a free standing coffee shop and restaurant may adversely impact on the vitality and viability of Seaton Town centre).

Materials and design

23. Prior to the commencement of each phase of the development, a schedule of materials and finishes, including British Standard or manufacturer's colour schemes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls, roofs and ground surface materials of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the LPA.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area).

24. Prior to the commencement of development, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. Development of the relevant phase shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area).

25. Prior to the commencement of development detailed 'working drawings' of the retail store to include elevations and floor plans shall be submitted to and agreed in writing with the LPA. The development shall not proceed otherwise than in strict accordance with the details as may be agreed unless otherwise agreed in writing with the LPA. A full sustainability audit of the building and intended BREEAM rating shall also be submitted for approval. The building shall be completed in accordance with that approval unless otherwise agreed in writing with the LPA.

(Reason – To ensure the LPA retains control over detailed design matters in the interests of the visual appearance of the building and the character of the area).

26. Prior to the commencement of development full details including construction details of all boundary and retaining walls and fences including the intended external finishes of those features shall be submitted to and agreed in writing with the LPA. The development shall thereafter be carried out in accordance with the approved details.

(Reason – In the interests of the visual appearance of the development and the character of the area).

27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site other than those expressly permitted by this permission or by a condition of planning permission without the further prior written consent of the LPA.

(Reason – In the interests of controlling future walls and other features in the interests of the appearance of the development).

28. Prior to the commencement of any part of the residential development hereby permitted a detailed Design Code for the whole of the residential element of the development shall be submitted to and agreed in writing with the LPA. The Design Code shall include details and principles of site layout, highway design (including footways and shared surfaces), soft and hard landscaping, materials to be used on dwellings and for ground surfacing, building heights, spans and proportions, boundary features, window and door details, details of flues, meter boxes, eaves and roof ridges and treatment of verges and open areas to the front, rear and side of all dwellings, car parking courts and areas, and details and design parameters of public open space areas including play equipment where necessary. Each phase of the development shall thereafter be carried out in accordance with the approved details.

(Reason – To ensure that the development is planned as a whole in a cohesive manner, to avoid piecemeal development displaying differing design ethics, and to ensure that the resulting development is of high quality as required by Local Plan policies and in line with government guidance).

29. Prior to the commencement of any part of the proposed visitor centre, cycle hub, and hotel full details including elevations, floor plans, cross sections, existing and proposed site levels, and details of all windows, doors, roofs and materials (including the submission of samples where necessary) shall be submitted to and agreed in writing with the LPA. The development of these elements of the scheme shall proceed only in strict accordance with the details as may be agreed unless the LPA has agreed any variations in writing before the works take place.

(Reason – To ensure the development is appropriate in terms of its appearance, materials character and impact).

Flood Risk

30. The development shall not proceed other than in strict accordance with the Flood Risk Assessment received 3 February 2009.

(Reason – To ensure the development complies with the guidance as set out in PPS25).

Building Heights

31. The development hereby permitted shall be carried out in strict accordance with the building storey limits proposed by the applicants as shown in approved plan 07 198 AP 206 submitted with the application. No building in any of the zones shall exceed the number of storeys indicated on plan AP206 for the relevant Zone

(Reason - This development is EIA development and the visual impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the building heights indicated in plan 07198AP206).

Limits on Development

32. No more than [290] dwellings shall be constructed within the application site as part of the development hereby approved.

(Reason - This development is EIA development and the impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the number of dwellings specified in this condition).

33. No more than 100 rooms for overnight guest accommodation may be included in the hotel hereby permitted.
(Reason - This development is EIA development and the impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the level of guest accommodation specified in this condition).
34. The retail element of the application hereby permitted shall not exceed [5,996] m2 gross floor area and shall not exceed 8.6 metres in height.
(Reason - This development is EIA development and the visual impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the building heights indicated in this condition).
35. The visitor centre hereby permitted shall not exceed 1500 square metres gross floor area
Details of the site layout, floor plans, elevations and materials shall be submitted as part of the Reserved Matters.
(Reason - This development is EIA development and the visual impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the building area indicated in this condition).
36. No more than 427 car parking spaces shall be provided in the principal car park for the retail element of the development hereby permitted.
(Reason - This development is EIA development and the impacts of the proposed development have been assessed in the applicant's Environmental Statement, based on the car parking numbers indicated in this condition).

General

37. The development shall be carried out wholly in accordance with the uses indicated in Plan 07198 AP 200 hereby approved and no development for an alternative use within the designated areas shall be permitted.
38. Notwithstanding the provisions of conditions above no development may commence until the LPA in consultation with Natural England has approved in writing a scheme for the bunding of all fuel tanks, fuelling areas, collection ditches, filters to intercept silt and sediment and hydrocarbon interceptors on site. The development shall then be carried out fully in accordance with the approved scheme and maintained to the satisfaction of the LPA.
(Reason – To prevent pollution to adjoining watercourses).
39. No demolition, piling works or works to break up concrete on site may take place until the LPA has approved in writing schemes to demonstrate that the applicant shall use processes that shall least disturbance in terms of noise and vibration to neighbouring sensitive receptors. The relevant works and the development shall thereafter be carried out fully in accordance with the approved details to the satisfaction of the LPA.
(Reason – To prevent disturbance to sensitive receptors).
40. Development may not commence until a programme of demolition and vegetation clearance indicating that such works will be carried out outside of the breeding bird process shall include a nesting bird survey being undertaken prior to commencement of any demolition or clearance works on site. The development shall thereafter be carried out entirely in accordance with the approved details.
(Reason – To minimise the impacts of the development on breeding birds).
41. No development may commence until a scheme for the control or eradication of Japanese Knotweed on site has been agreed by the LPA in consultation with the Environment Agency. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – In the interests of eradicating an invasive and damaging plant species).

42. Prior to commencement of the development hereby approved a scheme for the minimisation of impacts on air quality arising from the construction phase (as described in paragraph 12.97 of the applicant's environmental statement) shall be submitted to the LPA. No development may commence until the submitted scheme has been approved in writing by the LPA. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason – To minimise the impacts on air quality of the development).
43. Development may not commence until a scheme detailing the measures (including one way fences and continued management of habitats) for the protection of reptiles has been approved in writing by the LPA. The detail submitted shall include a capture and translocation programme to be implemented prior to development commencing and a reptile barrier fence around all areas of suitable habitat and appropriate artificial refuges laid out within the capture zone. The scheme shall provide that reptiles that are caught will be moved to an undisturbed and retained area of suitable habitat nearby that has previously been approved in writing by the LPA as a suitable site for translocation. Any translocation may take place only between April and September of any year. The development shall thereafter be carried out in entirety in accordance with the approved details to the satisfaction of the LPA.
(Reason – To minimise impacts on reptile populations within the site).
44. No development may commence until the LPA in consultation with Natural England has approved in writing a scheme for the bunding of the site during the fill operations to prevent the uncontrolled discharge from the site of saline water silt and sediment. The scheme shall demonstrate that all waters used in the fill operations to pump fill materials to the site shall be returned to the sea following appropriate on site treatment and in accordance with a scheme previously approved by the LPA in consultation with Natural England. The development shall then be carried out fully in accordance with the approved scheme and maintained to the satisfaction of the LPA.
(Reason – To prevent pollution to adjoining watercourses).
45. No development shall commence until the results of a further bat survey on the site and a scheme setting out any required measures to minimise the impacts of the development on bats have been provided to and approved by the LPA in consultation with Natural England. The scheme submitted shall include a tree management and planting scheme and the provision of bat boxes on the northern boundary of the application site, as well as a programme of development to demonstrate that works to the drain on the northern boundary of the site (including tree planting) shall not adversely impact on bat activity. The development shall thereafter be carried out entirely in accordance with the approved scheme.
(Reason: To protect and provide for suitable habitats for bats at the site).

RESOLVED: 2) that the Head of Planning and Countryside be given delegated powers to amend planning conditions and any clauses of the Section 106 Agreement as is deemed necessary

RESOLVED: 3) that the Head of Planning and Countryside be given delegated authority to take forward negotiations on S106 and Development Manager to assist in any changes needed to planning conditions.

Reasons for approval

The proposal is considered to be in general compliance with the policies of the adopted Devon Structure Plan in particular but not exclusively SH1, ST1, ST4, CO6, C13, SH2.

The proposal is considered to be in general compliance with the policies of the adopted East Devon Local Plan in particular but not exclusively LSE1, 7, N5, EN15, EN16, N20, EN21, SH1, H3, RE2, TA1, TA7.

Chairman Date.....