

**RECOMMENDATION A – APPROPRIATE ASSESSMENT
HABITATS REGULATIONS FOR EACH APPLICATION LISTED**

RECOMMENDATION B – APPLICATION 09/0019/MFUL

RECOMMENDATION C – APPLICATION 09/0022/MOUT

RECOMMENDATION D – APPLICATION 09/0557/MFUL

RECOMMENDATION A

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

The Council as the competent authority is therefore asked to resolve that it 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)

The Council as the competent authority is therefore asked to resolve that it 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

The Council as the competent authority is therefore asked to resolve that it 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.

RECOMMENDATION B

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.

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 £1.7 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.

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 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)

10. 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.)

11. 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.)

12. 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).

13. Other highway conditions to be supplied prior to Committee – not available at time of printing report.

Archaeology

14. 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

15. 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

16. 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

17. 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).

18. 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

19. 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)

20. 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).

21. 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

22. 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.)

23. 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.

24. 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.

25. 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

26. 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

27. 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).

28. 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

29. 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).

30. 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).

31. 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).

32. 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).

33. 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).

34. 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).

35. 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).

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,S7,EN5,EN15,EN16,EN20,EN21,SH1,SH3,RE2,TA1,TA7

Approved plans

Site layout received 24 June 2009
Access plan onto Harbour Road 7 July 2009
Floor and elevation plans received 24 June 2009
Cross section drawings received 24 June 2009
Petrol Filling Station drawing received 24 June 2009

List of Background Papers

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

RECOMMENDATION C

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.

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

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 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

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).

15. Other highway conditions to be supplied prior to Committee – not available at time of printing report.

Archaeology

16. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

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

Contaminated Land

17. 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

18. 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

19. 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).

20. 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

21. 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)

22. 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).

23. 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

24. 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.)

25. 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.)

26. 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.

27. 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.

28. 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)

29. 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).

30. 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

31. 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

32. 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

33. 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).

34. 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)

35. 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).

36. 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).

37. 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

38. 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.

39. 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).

40. 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).

41. 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).

42. 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).

43. 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).

44. 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).

45. 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).

46. 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).

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,S7,EN5,EN15,EN16,EN20,EN21,SH1,SH3,RE2,TA1,TA7

Approved plans

Location Plan

Site layout

Access plan onto Harbour Road

List of Background Papers

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

RECOMMENDATION D

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.

REFUSE 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).

List of Background Papers

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