

PLANNING

Date: Monday 13 August 2018
Time: 5.30 pm
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, Democratic Services Officer (Committees) on 01392 265107.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Membership -

Councillors Sutton (Chair), Lyons (Deputy Chair), Bialyk, Branston, Denham, Edwards, Foale, Harvey, Mrs Henson, Morse, Prowse, Thompson and Vizard M

Agenda

Part I: Items suggested for discussion with the press and public present

5 Update Sheet

(Pages 3 -
12)

Date of Next Meeting

The next scheduled meeting of the Planning Committee will be held on **Monday 3 September 2018** at 5.30 pm in the Civic Centre.

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PLANNING COMMITTEE

13 AUGUST 2018

ADDITIONAL INFORMATION

Correspondence received and matters arising following preparation of the Agenda

Item 4 : Pages 3-154

Application Ref: 18/0076/OUT

Land north of Honiton Road and west of Fitzroy Road, Exeter

Environmental Health Comments and Air Quality Mitigation

Further comments were received from the Environmental Health Officer just before the committee report was published. These are attached. It maintained the objection to the application due to the adverse impact on air quality and insufficient mitigation of air quality impacts. However, it went on to comment on the suggested mitigation options proposed by Stagecoach of widening the bus lanes along the Heavitree corridor and changing the bus lane hours to ease the passage of buses along this route, and upgrading buses along this route. The EHO stated that these proposals seemed a good 'fit' and would achieve reductions in pollution levels at the places most affected by the development. However, it is not possible to quantify the impact of widening bus lanes on air quality. The EHO has estimated the impact of upgrading the buses on the 4/4A/4B route. This would reduce nitrogen dioxide emissions by the equivalent of taking 1,475 cars off the road every day. This is small compared to the total number of vehicles travelling along East Wonford Hill each day of 21,981 and is less than the increase of 1,870 vehicles predicted by the applicants as a result of the development. However, the EHO stated that it will clearly reduce concentrations in the area, which will have a health benefit for those living and spending time along this corridor.

The applicants have offered to upgrade all the buses on the 4/4A/4B route from Euro III to Euro VI standard by providing a financial contribution of £294,000. In addition, they have proposed to double the number of vehicle electric charging points in the development from 20 to 40, i.e. 5% to 10%. Officers consider this is satisfactory to mitigate the air quality impacts of the development and to satisfy the requirements of Policies CP11 and EN3.

Conditions

The applicants have commented on the recommended conditions. They have requested condition 4 ('Outlook of Neighbouring Dwellings') to be removed, the wording of conditions 21 ('Detailed Landscaping Scheme') and 36 ('Chemist') to be amended, and condition 38 ('Dual Representation') to either be removed or reworded to relate to the City Centre only. Officers have agreed to change condition 4 to an informative, as these matters are appropriate to be dealt with at the reserved matters stage. Officers have agreed to amend part of the wording of condition 21 from "It shall include soft landscaping to screen the fence..." to "It shall include soft landscaping to soften the impact of the fence..." to provide a degree of flexibility. Officers have agreed to change condition 36 back to refer to 5 years instead of 10 years, as the applicants have stated that this will be difficult to achieve commercially. Officers have not agreed to remove condition 38 however, as it is considered to be an important part of the recommendation to approve the application. It will prevent store relocations to the site from existing centres thus ensuring the scheme primarily serves the local area and not the whole of the city resulting in more car travel and pollution, and ensure that there will be no detrimental impact on existing centres in terms of the retail facilities that they provide to their communities. This is consistent with the intended purpose of the application as per the submission documents. In addition, there is no policy basis to refer to the City Centre only, as district centres are afforded the same level of protection in planning as 'town centres'.

Additional Representations

The Crown Estate has submitted a late representation on behalf of Purple Investment GP Ltd (a joint venture between The Crown Estate and TH Real Estate), who own Princesshay. This letter is attached. Purple Investment GP Ltd have not objected to the application, however they have recommended deferral to provide more time to consider the cumulative impacts of the development with the other out-of-centre retail applications and to consider the future of the Bus and Coach Station. They have drawn attention to the “significant” amount of retail floorspace currently proposed in out-of-centre locations in Exeter, at the same time as market conditions for the City Centre are challenging. They have suggested that the application should be determined at the same time as the other major retail applications and noted the proposal remains contrary to planning policy for not being a “local centre”. They have suggested it is too early to rule out the BCS site as a sequentially preferable alternative for the proposed scheme and the only justification for dismissing it of including a “reasonably large foodstore” is not guaranteed as the application is in outline. They have requested that the conditions are made more robust if the application is approved, including: making the Dual Representation condition an obligation within the s106; amending the conditions to guarantee a “reasonably large foodstore” to ensure the sequential test is passed; limiting the goods that can be sold to more than just clothing and footwear, including watches and jewellery, fashion accessories, toys, books, magazines and stationery, pre-recorded audio visual products etc.; and changing the minimum unit size restrictions to apply to the ground floors.

Officers do not consider that this representation raises new issues that have not already been addressed in the committee report. Officers have based the Dual Representation condition on a condition approved by the Secretary of State on a recovered appeal granted in August 2017, therefore do not consider that it is necessary for it to be included in the s106 agreement. Officers consider the proposed retail controls to be acceptable and balanced, taking into account that the proposal will not result in a significant adverse impact on the vitality and viability of existing centres and the intended purpose of the application is to serve the needs of the local community, including residential development and businesses. However, references to “clothing and footwear” should be changed to “clothing and/or footwear”.

Persimmon Homes also raised concerns over the lack of a condition to ensure a connection (including bus link) to the north boundary of the site for permeability, however it was pointed out that this shall be dealt with as an obligation in the s106 agreement. They also raised concerns over no linkage being required to Oberon Road, however officers stated that they did not consider this would meet the ‘tests’ for conditions and obligations for this proposal. They also stated that they consider the proposal to be contrary to the Monkerton DPD (Masterplan) and repeated their previous concerns regarding the impact of the proposal on the amenity of the neighbouring dwellings.

New Applications

A planning application has been received on 9 August proposing to vary condition 3 of planning permission ref. 07/0397/FUL (former Toys R Us), in order to be able to sell any non-food products from up to 930.5 sq m (GIA) of the vacant unit, instead of only: toys, games, cycles, nursery goods, educational products for children and goods ancillary thereto, and/or bulky goods, and goods and services for the construction, repair, maintenance and improvement of the home, garden and motor vehicle.

This application is not a major application, as the affected floorspace is less than 1,000 sq m, however it will contribute to the cumulative impacts of the current application and other out-of-centre retail applications to be determined by the Council.

memo



From : Alex Bulleid

To : Matthew Diamond

Extn : 5718

Copy to :

Date : 05 July 2018

Application No. : 18/0076/OUT

Location : Land North of Honiton Road and west of Fitzroy Road, Honiton Road

Proposal : Outline application for mixed use development to provide town centre facilities comprising retail units (food and non-food) (*Use Class A1*) and restaurant units with ancillary drive-throughs (*Use Class A3*), together with associated access, access roads, service yards, car parking, infrastructure and landscaping (*All matters reserved except access*).

The above application has been considered and I would make the following comments:

It is worth noting that a few sentences in the Stagecoach submission dated 27 July 2018 are not correct with respect to the current air pollution situation. On page 2, under the heading of 'Potential Air Quality Mitigation: East Wonford Hill' it says that levels are close to the objective and an AQMA is on the cusp of being declared. The situation is actually that an AQMA was declared in 2008, and levels of nitrogen dioxide remain above the objective at several points along this corridor.

Objection: Adverse impact on air quality and insufficient mitigation of air quality impacts

The latest addendum to the AQIA (Ramboll 23/07/18 L1700001687_230718) predicts that there will be no increase in pollution levels at East Wonford Hill because there will be no increase in traffic flows. In air quality terms there is nothing to disagree with here, and if we accept that there will be no traffic impact then we cannot ask for any mitigation.

The key question therefore is whether that traffic prediction is likely to be correct. The applicant's prediction has been challenged by DCC, who do expect that some increase in traffic flows will occur as a result of the scheme. It seems that unlikely that it will be possible to quantify this reliably.

Based on DCC's challenge to the applicant's traffic prediction, and by extension the latest AQIA, I consider that there will be some impact on air pollution on East Wonford Hill. Guidance from the Institute for Air Quality Management on air quality and planning states that any increase in pollution levels where the current levels are 110% or more of the relevant objective (as is the case at East Wonford Hill) should be considered at least 'moderate', if not 'substantial'.

I have therefore taken the position that the development will at least have a moderate adverse impact, and possibly a substantial one. It is also relevant that National Planning Policy guidance requires the cumulative impact of development on air quality to be considered. This

has not been done for this development because this application was the first of four retail applications to be made for the area close to J29. However despite not being formally assessed, cumulative impacts are still relevant and are only likely to make the task of achieving legally compliant pollution levels at East Wonford Hill harder still.



For these reasons I believe that air pollution mitigation is therefore required under policy EN3.

The Ramboll letter report (L1700001687_210318) proposes mitigation consisting of:

- Toucan crossing on Honiton Road to provide an improved connection for pedestrians and cyclists across Honiton Road from Sowton.
- Significant infrastructure for a new Bus Route for East Exeter, to provide for a right turn, Bus Only link into the residential estate to the north. This infrastructure is subject to agreement with Devon County Council.
- An initial proposal of two electric charging points, later updated to 20.
- Cycle racks/storage would be provided on the proposed development.

The impact of these mitigation options has not been quantified. The improved offer of twenty electric charging points is still low, at less than 5% of the total spaces.

The toucan crossing and the bus infrastructure had already been proposed by the applicant before the updated air quality assessment. This raises two issues. Firstly, whether they had already been accounted for in the travel assumptions made in the Transport Impact Assessment. If this is the case they cannot be proposed as mitigation of the substantial air quality impact that was modelled based upon that traffic data. The second concern with these measures is that the developer would have done them anyway. They are not a response to the air quality impact, and don't reflect the harm that this development is predicted by the developer to cause.

Environmental Health and Licensing therefore maintain their objection to this application on the grounds that:

- 1) The impact of the proposal on the air quality of East Wonford Hill is at least moderate and adverse.
- 2) Policy EN3 states 'EN3: DEVELOPMENT THAT WOULD HARM AIR OR WATER QUALITY WILL NOT BE PERMITTED UNLESS MITIGATION MEASURES ARE POSSIBLE AND ARE INCORPORATED AS PART OF THE PROPOSAL'. The proposed mitigation is unquantified and insufficient.

I would consider alternative mitigation, for example the scheme suggested by Stagecoach in their letter of 27th July. They propose widening bus lanes along the Heavitree corridor and changing the bus lane hours to ease the passage of buses along this route. They also suggest that they could upgrade buses which run along this route which it would not otherwise be economic for them to upgrade, especially those on the 4/4a/4b routes. These buses are likely to be used by people travelling to the application site, and travel through the affected areas of East Wonford Hill and Fore Street Heavitree. Although not directly mitigating the impact of car travel to the application site, these proposals seem a good 'fit' and would achieve reductions in pollution levels at the places most affected by the development.

It is not possible to quantify the impact of widening bus lanes on air quality because there is too much uncertainty over current and future speeds, which would be required as part of the emission modelling process. In qualitative terms it is possible to say that a reduction in bus idling, and smoothing flows of buses would reduce emissions and therefore improve air quality.

I have however estimated the impact that the upgrade in bus standards on the 4/4A/4B route would have. An upgrade from current Euro III standard to the latest Euro IV would reduce nitrogen dioxide pollution emissions by the equivalent of taking 1475 cars off the road every day. Compared to total vehicle flows on East Wonford Hill currently of 21,981 this is quite a small number. However it is less than the applicant's original estimate of 1870 additional car journeys per day on East Wonford Hill resulting from the development (Ramboll letter report L1700001687_210318). It is not possible to quantify what impact this would have on roadside concentrations of nitrogen dioxide, because a detailed dispersion model is needed to convert vehicle emissions to airborne concentrations, however it will clearly reduce concentrations in this area. This will have a health benefit for those living and spending time along this corridor.

Should agreement be reached over the issues above, Environmental Health's response would be:

No objection, subject to the following condition(s):

CEMP (construction Environmental Management Plan)

No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) No burning on site during construction or site preparation works.
- i) Measures to minimise noise nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the LPA.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Litter Management

Prior to the commencement of each food use hereby permitted, the occupier of the unit shall submit for approval in writing by the LPA a litter management plan. The plan shall be implemented in full thereafter.

Kitchen Extraction

Prior to the commencement of each food use hereby permitted, the kitchen ventilation system for the unit shall be installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall include drawings of the location and design of the system, and information on how odour emissions shall be controlled,

including abatement if necessary, and how the system shall be maintained to ensure it does not adversely affect the amenity of surrounding uses.

Reason: In the interests of the amenity of the area, especially nearby residential uses.

The applicant should be advised that further guidance on the required information is available in annex B of the withdrawn DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and this guidance remains valid.



Exeter City Council

Lighting

Prior to the commencement of the development an assessment of the impact of all external lighting associated with the development shall be submitted to and approved in writing by the Local Planning Authority. The assessment should address the impact of the lights (including hours of use) on the nearest receptors. Thereafter the lighting shall be installed and maintained in accordance with the specifications within the assessment.

Noise

- 1) There shall be no deliveries associated with the operation of the development hereby authorised between 2300 and 0600 hours.
- 2) Prior to the first occupation and use of the development hereby authorised a continuous fence shall be provided along the northern boundary of the site to provide an acoustic, visual and security barrier in accordance with details that shall have been submitted to, and received the prior approval in writing of, the local planning authority.
- 3) Notwithstanding condition 2 above, total noise from the development hereby permitted shall not exceed a rating noise level of 5dB above background noise levels, measured in accordance with BS4142:2014. Compliance with this condition should be assessed at 1m from the façade of residential receptors, or an alternative suitable proxy location as agreed in writing with the LPA. This noise level shall be demonstrated to the LPA by measurement and reported to the LPA following the first occupation of all the units and maintained thereafter.

Alex Bulleid
Senior Environmental Technical Officer
Environmental Health and Licensing

Planning Services
Exeter City Council
Civic Centre
Paris Street
Exeter
EX1 1NN

FAO Matthew Diamond (Matthew.Diamond@exeter.gov.uk)

Dear Sir

**EXETER-LAND NORTH OF HONITON ROAD AND WEST OF FITZROY ROAD
PLANNING APPLICATION REF. 18/0076/OUT**

As the owners of Princesshay Shopping Centre, Purple Investment GP Ltd (a joint venture between The Crown Estate and TH Real Estate) note that Officers are recommending approval for the application by CPG Development Projects Ltd and Growen Estates Ltd for the development of land at Honiton Road/Fitzroy Road for a significant Class A1 retail scheme. The application is to be considered by Planning Committee on 13 August.

Purple Investment GP Ltd have been monitoring the application. We have been awaiting final details of the proposals, the advice of the City Council's external advisors, GVA, and the City Council's review of that advice before sharing our views formally with the City Council. The Officer's Report to Committee appends GVA's advice. Whilst dated May 2018 this is the first time it has been publically available. It has not been included as one of the documents on the Council's website. Therefore, now is the earliest opportunity for Purple Investment GP Ltd to review the position in full.

This is the second application for large scale retail development on this out of centre site in the last few years. The previous application was refused by the City Council in December 2014 and dismissed by the Secretary of State in June 2016 following an Inquiry where the City Council opposed the development. We were represented and supported the City Council's position. In dismissing the appeal, the Secretary of State accepted that the proposals were contrary to the development plan,

principally as the scale of development was far greater than the “local centre” designation (Policy CP19), and failed the sequential test, specifically in relation to the Bus and Coach Station site.

We appreciate that the latest scheme comprises a reduction in the total floorspace proposed (an overall reduction of circa 4,166 sqm), but it remains the case that the planning application is for 12,634 sqm of Class A1 retail and Class A3 food and drink floorspace in an out of centre location. In fact, the amount of Class A1 floorspace proposed has actually increased by 859 sqm.

In isolation, this is a significant application. However, it will not be lost on the City Council that this application is but one of a number for Class A1 development on out of centre sites in Exeter, including:

- Western Power Distribution depot (18/0368)
- Devon and Cornwall Constabulary HQ (18/1007)
- B&Q Avocet Road (18/0893)

Taken together with the Honiton Road/Fitzroy Road application, currently in out of centre locations in Exeter these proposals account for just less than 50,000 sqm of Class A1 and other Town Centre uses (i.e. Class A3, D2, etc) across at least 40 units. By way of simple comparison, Princesshay Shopping Centre comprises about the same floorspace across circa 60 units. This quantum of development outside of Exeter City Centre is significant by any measure and for planning applications for this scale and type of development to be “live” concurrently is very unusual.

Furthermore, the applications are being progressed at a time when the market conditions for Exeter City Centre are challenging and the pressures facing retailers, particularly national multiple retailers in the City Centre, are well documented. Granting planning permission for additional development out of centre could add to this general context of uncertainty, including in relation to the City Council’s own aspirations to deliver the redevelopment of the Bus and Coach Station.

We would make the following observations that we would invite the City Council to consider before determining the planning application:

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- Given the number of applications for comparable development in close proximity to one another which are now before the City Council, we respectfully suggest that the City Council should look to determine all of the applications together. This would allow the City Council to give due consideration to the issues of cumulative impact in retail and transport terms and in the event it is minded to approve one or more of the applications to do so on a consistent basis, including in relation to matters such as conditions, S106, etc. To determine the current application in isolation and in advance of a full understanding of the issues arising from the other applications, could be interpreted as undermining a proper and robust decision making process.
 - The relevant development plan policy remains unchanged and the application site continues to be subject to an allocation for a “local centre” (see Policy CP19 of the Exeter Core Strategy). The scale of development now proposed remains significant and in our view is way beyond any interpretation of a “local centre”. On that basis, a consistent view, in line with the previous appeal decision, would be that the proposals are contrary to policy and should be refused.
 - We note that GVA continues to conclude that the Bus and Coach Station site in the City Centre is sequentially preferable and available. Indeed, the only justification offered to suggest an alternative position is the fact that the application now includes a “reasonably large foodstore” which might rule it unsuitable. We would suggest that even in the event this observation were to be appropriate, the application is in outline and there is no guarantee a “reasonably large foodstore” will form part of the scheme. Furthermore, we note that the City Council is undertaking work with its external consultants over this summer regarding the potential development options for the Bus and Coach Station site with a view to bringing it back to the market before the end of the year. On the assumption that the City Council has commenced this work, we would suggest that to rule out the Bus and Coach Station site in advance of this process concluding would be premature.
 - Were the City Council to decide to approve the application we would ask that the proposed conditions, particularly relating to the type of retailers, range of goods to be sold and the size of units, are made robust so as to more closely align with the case the applicants have made (and therefore the basis of its assessments) and to protect the vitality and viability of the City Centre. This is particularly important given the application is in outline. Our suggestions include:

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- Making the “no poaching condition” (proposed Condition 38) an obligation within a S106. Were Next, Boots, M&S or any other major retailer to relocate from the Town Centre to the scheme it could have major implications.
 - Making it a requirement that the development includes a “reasonably large foodstore” (i.e. at least 23,000 sqft (as shown on the submitted drawings)) given this appears to be the basis of the Officer’s view that the Bus and Coach Station site might be discounted in the sequential assessment.
 - Tightening the range of goods condition such that it controls the range of non-food/comparison goods beyond just clothing and footwear. We would suggest extending the list of prohibited goods to include categories such as watches and jewellery, fashion accessories, toys, books, magazines and stationary, pre-recorded audio visual products, etc.
 - With regards minimum unit size restrictions, we would propose that these apply to ground floor.

We trust the City Council will take our comments into account. At this stage, we would suggest that the City Council defer determination of the application to provide the opportunity for it to fully consider the issues, not least in relation to the future development of the Bus and Coach Station and the cumulative effect of the numerous “live” planning applications for retail development. I would be happy to attend a meeting with the City Council to expand on Purple Investment GP Ltd’s concerns if it would assist.

Yours faithfully

Katherine Armstead

Senior Asset Manager

Cc Andrew Robbins - Exeter City Council (andy.robbins@exeter.gov.uk)

Roger Clotworthy - Exeter City Council (roger.clotworthy@exeter.gov.uk)

Adam Stone -TH Real Estate