

PLANNING COMMITTEE

Monday 8 February 2016

Present:

Councillor Bialyk (Chair)
Councillors Spackman, Buswell, Choules, Edwards, Lyons, Mottram, Newby, Prowse,
Raybould, Sutton and Williams

Apology:

Councillor Denham

Also Present:

Chief Executive & Growth Director, Assistant Director City Development, Principal Project Manager (Development) and Democratic Services Officer (Committees) (HB)

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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PLANNING APPLICATION NO. 15/1283/03 - EXETER CITY FOOTBALL CLUB

The Assistant Director City Development and the Principal Project Manager (Development) gave a joint presentation on this and the next application in respect of 31-35 Old Tiverton Road (Min. No. 10 refers) as the two were closely linked. Similarly, the speeches of the Councillors speaking under Standing Orders as well as those of the public speakers covered both applications.

The Assistant Director City Development and the Principal Project Manager (Development) presented the application for the demolition of the existing grandstand and replacement with new Well Street grandstand and away stand with associated spectator facilities; improved facilities for players/managers/referees under the main stand and new facilities for Big Bank stand; removal of car storage and existing buildings and replacement with new purpose built student accommodation blocks up to a maximum height of 6 storeys comprising 312 cluster/studio/disabled rooms with associated facilities including parking, cycle storage, landscaping, new internal road and pedestrian access between 20 & 21 Old Tiverton Road and change of use of 20 Old Tiverton Road to six student rooms with associated shared facilities.

Members were circulated with an update sheet - attached to minutes together with an additional update (also attached) provided by the applicant in response to the issues raised by the St. James Neighbourhood Forum.

The Principal Project Manager (Development) described in detail the sites and applications and advised that the total number of representations in favour of both applications was 1,765 and that the number who had expressed their opposition was 130.

The Assistant Director City Development covered the planning policy background to the applications and explained the issues relating to student accommodation in general and the implications for the area adjacent to the football ground and the

wider St. James community. He stated that no other viable development proposals had come forward for the site, that the applications were an acceptable option for the site when considered against the development plan as a whole and the material considerations. They would secure the vitality and viability of the Football Club. He referred to two specific policy conflicts that of community balance within the St. James area (SD1(d)) and the proposal for the change of use of 20 Old Tiverton Road.

The St. James Neighbourhood Plan looked to provide a better community balance in SD1 (d) diverse population and a mixed community and the development would lead to a greater imbalance in the community. The Assistant Director emphasised that Policy SD1 did not specify particular uses for the site and did not identify Purpose Built Student Accommodation as an unacceptable use for this site. The applicants had contended that the development of purpose-built accommodation would lower the demand for HMOs and allow for certain HMOs to be returned to family accommodation, consequently improving the community balance of the existing housing stock. This could not be guaranteed due to the future growth of the University and convenience of the ward for students.

With regard to the proposed change of use of 20 Old Tiverton Road to student use local residents were concerned that this change would be contrary to the Article 4 Direction and policies applied in this area restricting the change of use from dwellings to HMOs. Whilst in isolation, this change of use would be refused, it was noted that there was a clear association with the comprehensive redevelopment of this site and it had been secured to provide additional land for the re-development site and was a small element of the scheme. It also provided a visual presence and pedestrian link for the student accommodation onto Old Tiverton Road. The applicant had confirmed that the management of this property would be linked to the main student accommodation and therefore covered by the same Student Management Plan, which would be required by the Section 106 Agreement.

Councillor Shiel attended the meeting and spoke on this item under Standing Order No. 44. He made the following points:-

- the application should be assessed with regard to ensuring a balanced decision in light of all information available; and
- believe that accepting the proposal would be to the greater good of the City and that the applications should therefore be approved.

Councillor Owen attended the meeting and spoke on this item under Standing Order No. 44. He made the following points:-

- acknowledge the importance to the City of the Football Club and the valuable work of the Football in the Community Trust and that the majority of those supporting the application are fans of the Club;
- the number objecting is smaller but they are from the St. James ward who will have to live with the stadium throughout the year;
- a significant amount of work went into the production of the St. James Neighbourhood Plan, it is an important planning document and can be seen as localism in action as opposed to directives etc. from Government. Overriding the Plan could be viewed as demoralising to the St. James community and the whole process of producing the Plan;
- although the student population in the St James area was recorded at 51% in the 2011 census, suggest that this has increased by a further 2% and will increase further with this proposal;
- the area has problems associated with noise caused by students, particularly in the early hours when they return from the University campus

through the residential roads of Union Road, Prospect Pace, Devonshire Place, Well Street, St James Road and Old Tiverton Road etc. In fact, a number of students themselves have made complaints in respect of late night noise;

- with some 300 students anticipated with this development the area immediately around the units will see a significant number of late night deliveries of take-away food;
- trust that if permission is granted there will be robust student management framework and that there should be an on-site presence until 3am;
- although an increase in the provision of Purpose Built Student Accommodation could lead to a reduction in houses in multiple occupation it is believed that this will be less evident in the St. James area - there has however been a reduction in the Polsloe ward;
- although there was a reduction in the height of the flats still believe that the overall impact is excessive and that if minded to approve there should be a further reduction of the six storey elements to five;
- the rationale that 20 Old Tiverton Road could also be converted to student use against the Article 4 Direction is not acceptable - ordinary applications for conversions to houses in multiple occupation in an Article 4 Direction area must wait 12 months to provide evidence of difficulty in selling a private residence;
- although it is stated that provision will be made for disabled parking in the Fountain Centre this will lead to a displacement from the Centre car park of other vehicles into the surrounding residential areas;
- there is an overall benefit to Exeter as a whole to secure the future of the Football Club but this should not be achieved at the expense of the St James community; and
- oppose the applications.

Responding to a Member's question, he confirmed that the St. James Neighbourhood Forum had received a number of enquiries nationally in respect of its Neighbourhood Plan.

Mr Osment spoke against the applications. He made the following points:-

- a member of the Prospect Park Residents Association and the Exeter St James Forum speaking on behalf of the Forum and the various residents associations of St James;
- have advised the City Council for many years including Princesshay and the Exeter Science Park and was the principal author of the Exeter City Centre Vision. Have assisted the Exeter St. James Forum in the preparation of the Neighbourhood Plan;
- the community of St. James worked for two years on the St. James Neighbourhood Plan and became only the second community in England to have its plan supported at referendum. At the very heart of the plan was the aim of improving the balance of the community by reducing the number of proportion of students to permanent residents. Exeter City Council adopted the plan and the Football Club was involved in the preparation of the Neighbourhood Plan and did not object to its adoption;
- the policies of the Neighbourhood Plan have been praised for being positive about development. It was the policy of the Neighbourhood Plan which has also help to bring forward the joined up scheme for the Football Club site and the Yeo and Davey land;
- support for the redevelopment of the Football Club site and the Yeo and Davey land was conditional and would only be forthcoming if the scheme

delivered a well-designed mixed use development that improved the balance of the community;

- improving the balance of the community is the single most important, and over-riding, aim of the Neighbourhood Plan;
- the proposals are not compliant with the Neighbourhood Plan and worsen the balance of the community. Because St James is in close proximity to the University and is popular with students, the development of an over supply of purpose built accommodation is unlikely to result in any significant drop in the number of family houses occupied by students in St James;
- the reason for supporting the developers' argument that a student housing development is the only type of development that will provide sufficient funds to improve the Football Club is flawed;
- no alternative scheme involving a mix of development has been prepared. It is disappointing to the local community that the developers were not asked to fully investigate the development of a scheme that would improve the balance of the community by providing homes for non-students;
- in Exeter, private residential development does not have a viability challenge. Values are high and a private residential development on this site would generate a significant developer profit and residual land value;
- an alternative scheme could both improve the balance of the community and create value and such a scheme is achievable. Instead, this scheme will demoralise the community of St. James and puncture the enthusiasm and belief in positive planning which developed through the preparation of the Neighbourhood Plan;
- the St James community is trying to make Exeter a better place. The community is not anti-development it just wants the type of development it specified in the Neighbourhood Plan. Exeter has a desperate shortage of housing for young professionals and this site could help meet that need; and
- ask that the decision be deferred and ask the developers to consider again how the scheme might meet the requirements of the Neighbourhood Plan Policy and work constructively with the community to prepare what could be a fantastic win-win development outcome for the whole of Exeter.

Mr Tagg spoke in support of the applications. He made the following points:-

- speaking as Chairman of Exeter City Football Club and Football in the Community;
- the development will provide a secure base for a prosperous future for the Football Club and allow the continuation and expansion of the work of Football in the Community;
- the family stand built in 1926 requires replacing and is under the close watch of the Safety at Sports Grounds group and can be closed by them;
- the project will secure a prosperous future for Football in the Community, the Club's Charitable arm that carries out educational and volunteer work;
- with the University expanding, purpose built student accommodation is vital;
- purpose built student accommodation is the solution to a balanced community and this is an ideal site. Providing student accommodation is the only way that the stadium improvements can be funded with delivery secured by a Section106 Agreement with the partners paying the cost of works up front to the Council. No student rooms can be occupied until the stand is built;
- the club has been willing to compromise and has offered amendments to address concerns of height and massing; and
- the Club has received huge support from many quarters – the University, the Chamber of Commerce, local businesses, the Civic Society etc. with 2,000

representations of support received from the St James ward, the City of Exeter, its wider hinterland and beyond.

Mr Osborne spoke in support of the applications. He made the following points:-

- the proposed development accords with the Development Plan as a whole; which supports the development of the University and the provision of safe, well managed student accommodation in sustainable locations close to the University Campus;
- scheme will help to meet the identified need for additional student bed spaces to support Exeter University's position as a top 10 University;
- the Neighbourhood Plan recognises that demand for student accommodation in St James is inevitable as a result of its proximity to the University. Without additional purpose built student accommodation there will be a continued pressure on the existing housing stock, including in the areas of St James not covered by the current Article 4 Direction;
- Exeter City Council's own analysis of Council Tax Exemptions supports the conclusion that additional purpose built student accommodation has potential to release existing HMOs back to other types of housing, and that a failure to provide this will result in greater pressure on the existing housing stock;
- positive policies in the Development Plan and Neighbourhood Plan allocate the poor quality, underused land to the rear of the Big Bank and the Yeo and Davey site as a major opportunity for development, and the Neighbourhood Plan policy encourages a comprehensive mixed use development that secures the vitality and viability of the Football Club;
- in their presentation, the Neighbourhood Forum have chosen to focus on viability, having previously stated that viability should not be a planning issue and that the proposals should be assessed on their planning merits. The reality is that the proposal is deliverable and will secure the future of the football club and is the only one to come forward over the past decade; and
- the proposals comprise a comprehensive masterplan for a deliverable, mixed use development on an allocated development site. The proposals have been supported by an independent Design Review Panel, and will result in a high quality sustainable design that reflects the scale of adjacent buildings and provides enhanced frontages to Well St, St. James Road and Old Tiverton Road. The potential enhancements to Old Tiverton Road have also been supported by Historic England, Exeter Civic Society and the Neighbourhood Forum; and
- the significant benefits generated by these applications will provide well managed Purpose Built Student Accommodation which meets an identified need and helps to support community balance by reducing pressure on the existing housing stock, as well as delivering essential improvements to St. James Park and securing a viable future for the Football Club.

Members recognised and praised the work of the St. James Neighbourhood Forum. They recognised that this was a difficult decision that required them to decide on a planning balance by weighing a number of policies in the development plan and the material considerations. Some Members questioned the conversion of 20 Old Tiverton Road and suggested that an alternative use, such as private residential, might be more appropriate. Some Members asked for limited opening hours for the proposed retail unit (condition 12).

The recommendation was for approval subject to a Section 106 Agreement under the Town and Country Planning Act 1990 and conditions as set out in the report.

RESOLVED that, subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 in respect of the essential works (Core Works) required for the football club, potential for additional funding of the temporary away stand and a Student Management Plan, the Assistant Director of City Development in consultation with the Chair of Planning Committee be authorised to **APPROVE** planning permission for the demolition of the demolition of existing and replacement with new grandstand and away stand with associated spectator facilities; improved facilities for players/managers/referees under the main stand and new wc facilities for Big Bank stand; removal of car storage and existing buildings and replacement with new purpose built student accommodation blocks up to a maximum height of 6 storeys comprising 312 cluster/studio/disabled rooms with associated facilities including parking, cycle storage, landscaping, new internal road and pedestrian access between 20 & 21 Old Tiverton Road with the Assistant Director and Chair also authorised to negotiate an alternative proposal in respect of the building at 20 Old Tiverton Road than use for student accommodation with shared facilities, subject also to the following conditions:-

- 1) C05 - Time Limit – Commencement
- 2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on dated 25 November 2015 (dwg nos. 1213 PL01.01 rev A; PL01.02 rev A; PL02.01 rev A; PL02.02 rev A; PL02.03 rev A; PL02.04 rev A; PL02.05 rev A; PL03.01 rev A; PL03.02 rev A; PL04.01 rev A; PL04.02 rev A; PL04.03 rev A; PL04.04 rev A; PL04.05 rev A & PL04.06 rev A) and 25 January 2016 (dwg nos. 14024 SA L 01.10 rev PA2; 01.20 rev PA2; 02.01 rev PA2; 02.02 rev PA1; 02.03 rev PA1; 02.04 rev PA1; 02.05 rev PA1; 02.06 rev PA1; 02.07 rev PA1; 03.01 rev PA1; 03.02 rev PA1; 03.03 rev PA1; 03.05 rev PA1; 04.00 rev PA1; 04.01 rev PA1; 04.02 rev PA2 & 04.03 rev PA2) as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) C17 - Submission of Materials
- 4) C35 - Landscape Scheme
- 5) C37 - Replacement Planting
- 6) C57 - Archaeological Recording
- 7) C70 - Contaminated Land
- 8) No development shall take place, including any works of demolition and any earthworks, until a Construction and Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to:
 - a) include details of access arrangements and timings and management of arrivals and departures of vehicles
 - b) There shall be no burning on site during demolition, construction or site preparation works;
 - c) Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;
 - d) Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.The approved CEMP shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and public amenity.

- 9) No part of the student block hereby approved shall be brought into its intended use until the vehicular parking facilities as indicated on Drawing Hardworks Plan Rev P2 have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing, by the Local Planning Authority and retained for that purpose at all times:

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

- 10) No part of the student block shall be provided until the pedestrian routes to the development at 31-35 Old Tiverton Road to the north east and to Old Tiverton Road in south east on the Hardworks Plan Rev P2 have been provided and maintained for these purposes at all times.

Reason: To provide safe and suitable access for the pedestrians attracted ensure that adequate facilities are available for the traffic attracted to the site.

- 11) No part of the student block shall be brought into its intended use until the secure cycle parking facilities have been provided with the submitted details and maintained for these purposes at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

- 12) Notwithstanding the description of development hereby approved, there shall be no change of use of 20 Old Tiverton Road to six student rooms with shared facilities, and 20 Old Tiverton Road shall remain in Class C3 residential use. A scheme for the detailed layout, hard and soft landscaping, boundary treatment and design of the pedestrian access between 20/21 Old Tiverton Road shall be submitted to and agreed by the Local Planning Authority prior to the occupation of the student accommodation hereby approved. The said scheme shall be implemented in accordance with the approved details.

Reason: To clarify the property is no longer part of the application.

- 13) Travel Plan measures including the provision of sustainable transport welcome packs, shall be provided in accordance with details agreed in writing by the Local Planning Authority and Local Highway Authority in advance of occupation of the development.

Reason: To promote the use of sustainable transport modes, in accordance with paragraphs 32 and 36 of the NPPF.

- 14) Unless otherwise agreed in writing, no development shall take place until details of provision for nesting swifts has been submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.

Reason: In the interests of the preservation and enhancement of biodiversity in the locality.

- 15) The development shall proceed in accordance with the Flood Risk Assessment produced by AWP dated 12 November 2015.

Reason: In the interests of flood mitigation and protection.

- 16) The development hereby approved shall not commence until details of the proposed finished floor levels and overall ridge heights of specified buildings, in relation to an agreed fixed point or O.S datum have been submitted to, and been approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details

Reason: In the interests of the visual amenities of the area and the residential amenities of existing neighbouring occupants.

- 17) No development shall commence until details of the restoration and rebuilding of the existing boundary wall (including where necessary structural repairs) and additional boundary treatments/means of enclosure fronting onto St James Road and Well Street have been submitted to and approved in writing by the Local Planning Authority and thereafter be completed and maintained in accordance with the agreed plans.

Reason: In the interest of visual amenity and highway safety.

- 18) No development shall commence until details of the security gates and lighting to be installed alongside 20 Old Tiverton Road has been submitted to and approved in writing by the Local Planning Authority and adhered to at all times thereafter.

Reason: In the interests of residential amenity.

- 19) The specification for maximum mechanical plant noise included in the Noise Assessment prepared by Peter Ashford dated 6 November 2015 shall not be exceeded.

Reason: In the interests of residential amenity.

- 20) The new stand shall not be used until a scheme for the installation of equipment to control the emission of smoke, fumes and smell from cooking at that part of the development has been submitted to, and approved in writing, the Local Planning Authority and the approved scheme has been implemented. All equipment installed as part of the scheme shall be operated and maintained in accordance with the manufacturer's instructions thereafter.

Reason: In the interests of residential amenity.

- 21) The development shall proceed in accordance with mitigation and enhancement issues identified within the Ecological Impact Assessment prepared by EAD Ecology dated November 2015.

Reason: In the interests of environmental issues identified within the site.

- 22) The student accommodation hereby approved shall not be occupied until the practical completion of the identified stadium works have been achieved.

Reason: To ensure that the necessary identified improvement works in connection with the football club are carried out.

- 23) The football stadium works hereby approved shall not be used until details of any new public announcement system have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: In the interest of residential amenity.

- 24) The football stadium works hereby approved shall not be used until details of the floodlights to be installed on the replacement stand have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: To avoid the potential for light spillage and in the interest of residential amenity.

- 25) the Assistant Director City Development and the Chair of the Planning Committee be authorised to ensure that the development achieves a sustainable design.

**PLANNING APPLICATION NO. 15/1275/03 - 31-35 OLD TIVERTON ROAD,
EXETER**

The Assistant Director City Development and the Principal Project Manager (Development) presented the application for the demolition of existing structures and erection of new three storey building comprising ground floor retail use and student accommodation for nine studio flats with associated vehicular/cycle parking and bin storage.

Details of their presentations, together with the views of the two Councillors speaking under Standing Orders and those of the public speakers are set out in Min. No. 9 above.

Members were circulated with an update sheet - attached to minutes together with an additional update (also attached) provided by the applicant in response to the issues raised by the St. James Neighbourhood Forum.

The recommendation was for approval, subject to the conditions as set out in the report.

RESOLVED that, subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 in respect of a Student Management Plan, the Assistant Director of City Development in consultation with the Chair of Planning Committee be authorised to **APPROVE** planning permission for the demolition of existing structures and erection of new three storey building comprising ground floor retail use and student accommodation for nine studio flats with associated vehicular/cycle parking and bin storage, subject also to the following conditions:-

- 1) C05 - Time Limit - Commencement
- 2) the development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 16 November 2015 (dwg nos 14024 MU L.01.03 rev PA; L.01.30 rev PA1; L.02.30 rev PA; L.02.31 rev PA; L.03.20 rev PA; L.04.50 rev PA & L.04.51 rev PA), as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved
- 3) C17 - Submission of Materials
- 4) C35 - Landscape Scheme
- 5) C37 - Replacement Planting
- 6) No part of the A1 retail use hereby approved shall be brought into its intended use until the onsite loading bay, a new heavy duty dropped kerb crossing onto Old Tiverton Road and on site vehicular and secure cycle parking facilities, as indicated on Drawing Proposed Site Plan Rev PA1, have been provided in accordance with details and specifications that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority. Such facilities shall be maintained for this purpose at all times.
Reason: To provide a safe and suitable access for all users and ensure that adequate facilities are available for the traffic attracted to the site.
- 7) No part of the residential use hereby approved shall be brought into its intended use until the secure cycle parking facilities have been provided and maintained in accordance with the submitted details and retained for that purpose at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

- 8) C70 - Contaminated Land
- 9) No development shall take place, including any works of demolition and any earthworks, until a Construction and Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to:
- a) include details of access arrangements and timings and management of arrivals and departures of vehicles
 - b) there shall be no burning on site during demolition, construction or site preparation works;
 - c) unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;
 - d) dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance;
 - e) adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and material;
 - f) details of access arrangements, measures to minimise the impact on the adjacent footpath and timings of the proposed works.
- The approved CEMP shall be adhered to throughout the construction period.
- Reason:** In the interests of highway safety and public amenity.
- 10) The development hereby approved shall comply with the specifications as stated with the Noise Assessment report prepared by Peter Ashford dated 6 November 2015 in respect of maximum plant noise and minimum specification for glazing unless otherwise agreed in writing by the Local Planning Authority.
- Reason:** In the interests of residential amenity.
- 11) C57 - Archaeological Recording
- 12) The retail use hereby approved shall not be open to customers other than between the hours of 7am and 11pm.
- Reason:** So as not to detract from the amenities of the near-by residential property.
- 13) No development shall commence until a delivery management plan in respect of the retail use, specifically identifying timing of vehicles servicing the unit has been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with these details thereafter.
- Reason:** In the interest of residential amenity.
- 14) Unless otherwise agreed in writing, no development shall take place until details of provision for nesting swifts has been submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.
- Reason:** In the interests of the preservation and enhancement of biodiversity in the locality.

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LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS

The report of the Assistant Director City Development was submitted.

RESOLVED that the report be noted.

12

APPEALS REPORT

The schedule of appeal decisions and appeals lodged was submitted.

RESOLVED that the report be noted.

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SITE INSPECTION PARTY

RESOLVED that the next Site Inspection Party will be held on Tuesday 1 March 2016 at 9.30 a.m. The Councillors attending will be Denham, Buswell and Lyons.

Additional Information Circulated after Agenda Dispatched - circulated as an appendix

(The meeting commenced at 5.30 pm and closed at 7.41 pm)

Chair

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PLANNING COMMITTEE
8 February 2016
ADDITIONAL INFORMATION

Correspondence received and matters arising following preparation of the Agenda

Item 5
Pages 5-34
Ref: 15/1283/03
Exeter City Football Club
St James Park
Stadium Way
Exeter

240 additional support correspondence have been received (including 190 postcards) resulting in a revised total of **1765**. No additional issues raised.

5 additional objection correspondence have been received resulting in a revised total of **130**. Additional concerns were raised about the misleading positioning of the balloons in the balloon test. The positioning of the balloons back from the railway corridor would lessen the visual impact that this block when built will have on the residential houses opposite and around the site.

Exeter St James Forum have made further comments in respect of the Townscape and visual impact assessment (TVIA).

1. Balloon test and photomontages:-

ESJF thanks the applicants for providing the additional information requested. We found the photomontages to be useful in confirming and strengthening the concerns made in our objection letter of 8 January.

The bulk, mass, scale and external appearance of the proposed student accommodation blocks are not suitable for this location. The photomontages clearly illustrate that the monolithic blocks will be out of character with the predominantly Victorian residential townscape. They raise serious doubts about the conclusions in the TVIA submitted with the application. This is clearly shown in View Points (VP) 4, 15, 17, 18 and 19.

2. Night-time internal lighting:-

The effect of internal night-time lighting has not been considered. In particular, we know from existing schemes that communal lighting such as glazed stair wells is kept on throughout the night and will have an impact on neighbouring residents, particularly in Prospect Park (VP21).

The Forum concludes that the TVIA cannot be relied upon when making a decision on visual impact.

In addition concerns about specific photomontages and the way they were set up:

1. All photomontages: They do not show the proposed replacement stand and therefore provide a partial impression, not the whole development. This could be considered to be misleading.
2. For VP 19, the field of view selected hides much of the PBSA. There are no photomontages for VPs 8 and 10.
3. Clarification has been requested about the purple balloon in VP 9 and the purple and orange balloons in VP 11. As shown, there is a question as to the accuracy of either the balloon placings or the photomontages.

St James Neighbourhood Forum has raised the issue of viability. A note has been prepared by the Forum which accompanies this additional information sheet.

For clarification Members are advised that that their statutory duty in matters of the setting of listed buildings and conservation areas under Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 is to give special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This is referred to in NPPF paragraph 134 which states '*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*'. Paragraph 134 of the NPPF has been appropriately considered within the recommendation based on the evidence presented and the assessment of the applications with regards to conservation areas and listed buildings.

Additional conditions:-

Condition 2 reads:-

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on dated 25 November 2015 (dwg nos. 1213 PL01.01 rev A; PL01.02 rev A; PL02.01 rev A; PL02.02 rev A; PL02.03 rev A; PL02.04 rev A; PL02.05 rev A; PL03.01 rev A; PL03.02 rev A; PL04.01 rev A; PL04.02 rev A; PL04.03 rev A; PL04.04 rev A; PL04.05 rev A & PL04.06 rev A) and 25 January 2016 (dwg nos. 14024 SA L 01.10 rev PA2; 01.20 rev PA2; 02.01 rev PA2; 02.02 rev PA1; 02.03 rev PA1; 02.04 rev PA1; 02.05 rev PA1; 02.06 rev PA1; 02 07 rev PA1; 03.01 rev PA1; 03.02 rev PA1; 03.03 rev PA1; 03.05 rev PA1; 04.00 rev PA1; 04.01 rev PA1; 04.02 rev PA2 & 04.03 rev PA2) as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.

23. The football stadium works hereby approved shall not used be until details of any new public announcement system have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: In the interest of residential amenity.

24. The football stadium works hereby approved shall not be used until details of the floodlights to be installed on the replacement stand have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: To avoid the potential for light spillage and in the interest of residential amenity.

An additional condition is required to ensure that the development achieves a sustainable design. To address this issue it is recommended that delegated authority be given to the Assistant Director of City Development in consultation with the Chair of Planning Committee.

Item 6
Pages 35-46
Ref: 15/1275/03
31-35 Old Tiverton Road
Exeter

Condition to read:-

2. The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 16 November 2015 (dwg nos 14024 MU L.01.03 rev PA; L.01.30 rev PA1; L.02.30 rev PA; L.02.31 rev PA; L.03.20 rev PA; L.04.50 rev PA & L.04.51 rev PA), as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.



**ON BEHALF OF EXETER ST JAMES FORUM
NOTE TO PLANNING COMMITTEE, 8 FEBRUARY 2016**

Application no 15/1283/03: St James Park Development

VIABILITY: Policies and options

The Committee report repeats the assertion that student development is the only viable way to generate funds to improve the Football Club. In our view this assertion is not substantiated. Much hinges on this assertion, for it is the only possible factor which can justify a decision to ignore criterion (d) of policy SD1 relating to community balance.

Private residential and affordable housing

Further, the report gives councillors the impression that a private residential development with 100% affordable housing would not be policy compliant. However, you will be fully aware that the Council would not be in a position to enforce the provision of affordable housing should the cost of bringing forward the Football Club proposals make a residential development unviable. This stems from paragraph 173 of the NPPF which states:

*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. **To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.***

You will also be aware of the recent letter from Brandon Lewis, Housing Minister, 9 November 2015, to Chief Planning Officers and Council Leaders with regard affordable housing. This makes clear the Government's requirement that Councils should be flexible with regard to affordable housing provision as follows:

Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account site circumstances and changing circumstances. Developers are already entitled to apply to modify any obligation over five years old. They are also able to apply to revise the affordable housing element of any Section 106 planning obligation if they can evidence that the affordable housing element is making the scheme unviable and is stalling development.

In short, the developers of the Football Club site and Yeo & Davey site would be in compliance with NPPF and Government guidance if they came forward with a 100% private residential scheme as a means to fund the Football Club improvements. Such a scheme, of a similar scale as the proposed scheme, would generate a substantial surplus land value as illustrated by the table below. Costs and values used are based on local comparables and can be evidenced.

Developer Profit at 17.5%

	Gross Sq/ft	Net Sq/ft	Rate £	Total
Value Generated on Net Floorspace	100305	85259.25	325	27709256.25
Build Cost Gross	100305	85259.25	130	13039650
CIL	100305	85259.25	8	682074
Consultant fees @ 10%				1043172
Developer Profit @ 17.5%				4849119.844
Land/remediation etc				500,000
Finance costs				1166625.76
Residual				6428614.646
Assumed Value of Retail element on OTR				£1,000,000
Total surplus				£7,428,615

Developer Profit at 20%

	Gross Sq/ft	Net Sq/ft	Rate £	Total
Value Generated	100305	85259.25	325	27709256.25
Build Cost	100305	85259.25	130	13039650
CIL	100305	85259.25	8	682074
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Developer Profit @ 20%				5541851.25
Land/remediation etc				500,000
Finance costs				1166625.76
Residual				5735883.24
Assumed Value of Retail element on OTR				£1,000,000
Total surplus				£6,735,883

Mixed use development

Our professional advisors also point out that there is scope, in any development project, to optimise values in a variety of ways by refining the mix and quantum of unit sizes and tenures to achieve optimal viability. For example, one bedroom apartments will achieve higher values than those shown above. One bed room apartments in St James can sell at over £350/sq ft. There may be scope to mix some private residential with student accommodation to create an overall mix of optimal viability. Further, given the positive relationship between Yelverton and the Football Club, it might be reasonable to expect that they may be prepared to proceed with a lower percentage of developer profit, further increasing the residual value.

Testing assertion

The assertion in the Committee report is that an alternative residential scheme which meets the fundamental requirement of community balance is not viable. This has not been fully tested. Although Yelverton has solved viability constraints on the site by assembling the land, **no apparent effort** has then been taken, either by ECC or the developer, to achieve an alternative to a 100% student scheme. The planning officer's advice to Yelverton in pre-application discussions confirms that the applicants were not specifically encouraged to develop a mixed scheme that would improve the balance of the community.

A planning decision which accepts the developers' view (that a 100% student development is the only viable development outcome) may be flawed.

Resolving the viability issue

It is the view of ESJF that the application should be deferred until this fundamental point is resolved in consultation with the community.

If the community can be fully convinced, through such a process, that no other scheme other than a 100% student scheme will fund the football club proposals, some objectors may be more inclined to reach an accommodation with the proposals. At the very least they will be confident that all options will have been transparently considered.

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PLANNING COMMITTEE
8 February 2016
ADDITIONAL INFORMATION

NB - ADAPTED BY BC LLP TO MAKE COMMENTS FOR THE APPLICANT PRIOR TO THE DECISION-TAKING DEBATE BY THE COMMITTEE;
[BC LLP comments in red are inserted into the Forum's Note as submitted on Friday 5th February 2016 and elsewhere on the update sheet].

Correspondence received and matters arising following preparation of the Agenda

Item 5
Pages 5-34
Ref: 15/1283/03
Exeter City Football Club
St James Park
Stadium Way
Exeter

240 additional support correspondence have been received (including 190 postcards) resulting in a revised total of **1765**. No additional issues raised.

5 additional objection correspondence have been received resulting in a revised total of **130**. Additional concerns were raised about the misleading positioning of the balloons in the balloon test. The positioning of the balloons back from the railway corridor would lessen the visual impact that this block when built will have on the residential houses opposite and around the site.

Exeter St James Forum have made further comments in respect of the Townscape and visual impact assessment (TVIA).

BC LLP for the applicant do not make any comments on these matters that are all covered by the architects direct responses

1. Balloon test and photomontages:-

ESJF thanks the applicants for providing the additional information requested. We found the photomontages to be useful in confirming and strengthening the concerns made in our objection letter of 8 January.

The bulk, mass, scale and external appearance of the proposed student accommodation blocks are not suitable for this location. The photomontages clearly illustrate that the monolithic blocks will be out of character with the predominantly Victorian residential townscape. They raise serious doubts about the conclusions in the TVIA submitted with the application. This is clearly shown in View Points (VP) 4, 15, 17, 18 and 19.

2. Night-time internal lighting:-

The effect of internal night-time lighting has not been considered. In particular, we know from existing schemes that communal lighting such as glazed stair wells is kept on throughout the night and will have an impact on neighbouring residents, particularly in Prospect Park (VP21).

The Forum concludes that the TVIA cannot be relied upon when making a decision on visual impact.

In addition concerns about specific photomontages and the way they were set up:

1. All photomontages: They do not show the proposed replacement stand and therefore provide a partial impression, not the whole development. This could be considered to be misleading.
2. For VP 19, the field of view selected hides much of the PBSA. There are no photomontages for VPs 8 and 10.
3. Clarification has been requested about the purple balloon in VP 9 and the purple and orange balloons in VP 11. As shown, there is a question as to the accuracy of either the balloon placings or the photomontages.

St James Neighbourhood Forum has raised the issue of viability. A note has been prepared by the Forum which accompanies this additional information sheet.

For clarification Members are advised that that their statutory duty in matters of the setting of listed buildings and conservation areas under Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 is to give special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This is referred to in NPPF paragraph 134 which states '*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*'. Paragraph 134 of the NPPF has been appropriately considered within the recommendation based on the evidence presented and the assessment of the applications with regards to conservation areas and listed buildings.

Additional conditions:-

Condition 2 reads:-

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on dated 25 November 2015 (dwg nos. 1213 PL01.01 rev A; PL01.02 rev A; PL02.01 rev A; PL02.02 rev A; PL02.03 rev A; PL02.04 rev A; PL02.05 rev A; PL03.01 rev A; PL03.02 rev A; PL04.01 rev A; PL04.02 rev A; PL04.03 rev A; PL04.04 rev A; PL04.05 rev A & PL04.06 rev A) and 25 January 2016 (dwg nos. 14024 SA L 01.10 rev PA2; 01.20 rev PA2; 02.01 rev PA2; 02.02 rev PA1; 02.03 rev PA1; 02.04 rev PA1; 02.05 rev PA1; 02.06 rev PA1; 02 07 rev PA1; 03.01 rev PA1; 03.02 rev PA1; 03.03 rev PA1; 03.05 rev PA1; 04.00 rev PA1; 04.01 rev PA1; 04.02 rev PA2 & 04.03 rev PA2) as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.

23. The football stadium works hereby approved shall not be used until details of [please clarify the wording] any new public announcement system have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: In the interest of residential amenity.

24. The football stadium works hereby approved shall not be used until details of the floodlights to be installed on the replacement stand have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented at all times in accordance with the approved details.

Reason: To avoid the potential for light spillage and in the interest of residential amenity.

An additional condition is required to ensure that the development achieves a sustainable design. To address this issue it is recommended that delegated authority be given to the Assistant Director of City Development in consultation with the Chair of Planning Committee.

Item 6

Pages 35-46

Ref: 15/1275/03

31-35 Old Tiverton Road



Exeter

Condition to read:-

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NOTE TO PLANNING COMMITTEE, 8 FEBRUARY 2016**

Application no 15/1283/03: St James Park Development

VIABILITY: Policies and options

The Committee report repeats the assertion that student development is the only viable way to generate funds to improve the Football Club. In our view this assertion is not substantiated. Much hinges on this assertion, for it is the only possible factor which can justify a decision to ignore criterion (d) of policy SD1 relating to community balance.

Within the terms of the High Court findings in *Rochdale* [which has endured since the year 2000 and been endorsed by the Court of Appeal] the decision will be made having regard to the Development Plan taken as a whole and not on one single issue as suggested by the Forum.

Let's remind ourselves that the St James Neighbourhood Forum [the Forum] asked for a viability exercise, it was not the mainstay of the applicant's case. The applicant provided an independent report on differing types of residential schemes, from the professional Agency firm JLL. Since submission by JLL the report has been assessed by the Estates and Valuations Department at ECC and its conclusions accepted.

Once provided as a part of the application, the Forum has taken the view that it does not accept what a professional Agency firm has written and concluded and so in their response to the application on 10/1/16, state [in their bold underlining] that:

'Our key point is that viability is not a relevant planning consideration on this site. Development proposals must be considered on their planning merits.'

The Forum does now seem to be making it a main plank of their objection and so JLL has been asked to comment on the response from the Forum [who are not a professional Agency firm] on viability and they say:

'JLL have undertaken their own appraisals of the site and do not consider that the sales values quoted by the Forum are achievable in this location behind the football ground and next to the railway line. JLL have adopted much lower sales rates overall to reflect this and the affordable housing element which will be a

requirement of planning. JLL have a specialist team who undertake valuations and viability studies of all types of residential developments.'

The JLL appraisal supports the scheme as a viable way of providing what the permissive policy SD1 is looking for, which is:

'Proposals that secure the continued vitality and viability of the Football Club

The viability matter is not the 'only issue' that can overcome criterion (d) of SD1 as the Forum says – to remind ourselves the criterion states:

'd) take account of the need to improve the balance of the community'

Please note that in the adopted NP Policy SD1 there is no word 'and' connecting all the (a to f) sub criteria; so reading the policy they do not have to all be met [even if that is what the Forum believes] and yet the scheme has taken into account all the criteria and especially the desire locally to see a better balance by positively building PBSA to lower demand for student HMOs close to the campus, which geographically is where the site is.

Before taking a decision on the application, the Committee must ask itself therefore if this application will secure the continued vitality and viability of the ECFC and that the scheme has taken account of the need to improve the balance of the community, without suggesting that any part of that mixed community is to be banned or banished from the area through capping [particularly having regard to para 021 of the NPPG only recently reinforced in updates on 4th February 2016].

The reasons the committee can feel secure in the answer being positive are because:

- There is no other scheme on the table for decision – this is the one to be decided on its merits today as the Forum asked you so to do in their objections of 10/1/16 – so no deferral is necessary to wait to see if some other scheme is to be submitted – it is not going to be and that is not the job of the planning committee. The committee will take a decision on the application before it.
- Any alternative viability exercises as suggested in the note by the Forum is merely trying to create a doubt in Members' minds when the application 'taken as a whole' and the advice of the officers and the independent professionally written and scrutinised JLL report, are clear.
- There has not been an alternative scheme that provides the same support for the club for the whole period of the site being allocated for housing in the local plan and the policy for the retention of the ECF club
- It is acknowledged that the construction of PBSA is one of the ways to positively plan for a better balance of the community and the use of existing housing stock for families along with the policy to prevent housing being turned into HMOs. The policies work together not in conflict with each other.
- The officers have secured S106 safeguards and suggested conditions that link the developments together – the development does not progress without that in place – indeed a planning approval notice does not get issued.
- There are no technical reasons to prevent the development
- There are no design, layout or other issues to prevent the development – given the recent further changes offered and
- The Forum wants a mix of uses across the site and the applications together have delivered the opportunity for:
 - ✓ the ECFC ground significantly enhanced as a community leisure and sporting venue,
 - ✓ a PBSA to help the University retain its importance in the City,
 - ✓ a retail store of a size that meets a local need for convenience goods
 - ✓ new architecture in place of old commercial buildings and
 - ✓ various new pedestrian linkages and new landscape.

This is a mix in any meaning of the word.

Private residential and affordable housing

Further, the report gives councillors the impression that a private residential development with 100% affordable housing would not be policy compliant. However, you will be fully aware that the Council would not be in a position to enforce the provision of affordable housing should the cost of bringing forward the Football Club proposals make a residential development unviable. This stems from paragraph 173 of the NPPF which states:

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A planning decision which accepts the developers' view (that a 100% student development is the only viable development outcome) may be flawed.

If the committee takes the methodical decision-taking process as outlined above then there can be no suggestion of a flawed process.

The issues upon which the members will take a decision are set out in the report and they will consider the issue and policies as a whole as they are obliged to do.

They will not single out one reason and one reason only for agreeing to the application [if that is their decision] but will have considered the full remit of issues and weighed the scheme in the balance and can then we believe, grant approval of the application on its own merits for the reasons we have given above which are all interconnected.

Resolving the viability issue

It is the view of ESJF that the application should be deferred until this fundamental point is resolved in consultation with the community.

If the community can be fully convinced, through such a process, that no other scheme other than a 100% student scheme will fund the football club proposals, some objectors may be more inclined to reach an accommodation with the proposals. At the very least they will be confident that all options will have been transparently considered.

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