

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:-

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.

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:

*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
Consultant fees @ 10%				1043172
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.

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.