

ITEM NO.**COMMITTEE DATE:****27 JUNE 2016****APPLICATION NO:**

16/0618/03

FULL PLANNING PERMISSION

APPLICANT:

Trathen Properties Ltd

PROPOSAL:

Erection of a 6 storey building for hotel use comprising of 102 bedrooms to replace the previously approved office accommodation (Phase II of the mixed use development planning ref:11/1816/03)

LOCATION:

Land to the east of Dean Clarke House, Southernhay East, Exeter, EX1

REGISTRATION DATE:

13/05/2016

EXPIRY DATE:

12/08/2016

HISTORY OF SITE

Planning approval was granted in 2008 (ref no. 08/1736/03) for the construction of a new office building with basement parking, new access road into the site and a centrally located courtyard garden. The proposed office building sought to provide a total of 6,538 square metres of office space arranged over five storeys with two level of basement car parking providing a total of 90 spaces. This permission lapsed on the 14 November 2011.

In March 2012 (ref no. 11/1816/03) planning permission was granted for a mixed use development comprising a 120 bed hotel, offices, cafe/restaurant and basement parking over two levels. The proposal comprised two phases. The first building phase located on the part of the site closest to Dean Clarke House proposed a hotel with coffee shop (260 sq metres), restaurant (88 covers) and bar (46 covers). The hotel comprised 120 rooms spread over 6 floors. The ground floor office element would occupy an area of 362 sq metres. This building and the phase 2 of the development would have access to two levels of basement car parking containing a total of 167 car parking spaces, which would operate on a pay and display basis. This car park would also be available for general public use. To the rear of the building adjacent to the southern boundary would be proposed a landscaped area to serve both the hotel and the future office accommodation. The second building phase located closest to the existing courts building comprising a five storey office building of 352 sq metres of floor space on each floor, a total of 1760 sq metres.

The combined two phases of the building works would result in a five/six storey building constructed of brick and zinc coloured cladding with aluminium window frames and a flat roof. The application was accompanied by landscaping scheme which indicates the intended arrangement of the area in the interim period before phase 2 is built.

The hotel element of the building of this approval has recently been opened as Premier Inn.

In September 2015 planning permission (ref no. 15/0787/03) was granted for the change of use of the previously approved office to a 24 hour gym underneath the hotel building. This scheme also included cycle parking, air conditioning units and extract louvres to serve this facility. This permission has been implemented.

At the March Planning Committee planning permission (ref 15/1310/03) was refused for the erection of a 6 storey building for hotel use comprising of 106 bedrooms to replace the phase 2 office building. Whilst the application decision notice stated 106 rooms this was incorrect as two of the ground floor rooms are in practice used as ancillary 'back of house' eg storage rooms or general office and therefore the actual number of bedrooms available was 104. The application was refused for the following reasons:

- 1. The proposed development would harm business and employment opportunities in the city through the loss of an existing employment site located within the established Southernhay employment area. The proposal would therefore be contrary to Exeter Core Strategy Policy CP2 and the Exeter Local Plan First Review Policy E3.*
- 2. The siting, height, scale and massing of the proposed development would adversely affect the setting of designated historic assets. Specifically, the development would impact on buildings within the Southernhay Conservation Area and in particular affect the setting of Dean Clarke House a Grade II* building when viewed from Western Way and the existing properties in Pavilion Place which have a positive impact on the character and appearance of the Southernhay Conservation Area. It is therefore contrary to Paragraphs 58, 131-133 of the National Planning Policy Framework; Policy CP17 – Design and Distinctiveness of the Exeter City Council Core Strategy and Policy C1, C2 and DG1 of the Exeter Local Plan First Review 1995-2011.*
- 3. The proposal would result in the overlooking of the adjacent Quaker Meeting House garden area by reason of the number and proximity of windows within the southern elevation of the proposed hotel use and would therefore be contrary to Policy DG1 of the Exeter Local Plan First Review.*

DESCRIPTION OF SITE/PROPOSAL

The application site is situated between Dean Clarke House and the Crown Court. The application proposes a new six storey building containing a total of 102 bedrooms. The building occupies the site previously approved for office use and the submitted plans indicate that the footprint of the building will be similar to this previous scheme. Whilst the original building intended 5 floors of office accommodation, this application proposes a 6 storey building within a similar height. The original building had an overall height of 16.5 metres and this scheme proposes an increase to 16.7 metres (the previous refused scheme measured 17.2 metres). The building does differ from the previously approved scheme with the inclusion of a 'tower' section to the south east of the site which contains 5 floors of hotel accommodation. The overall building is stepped down in appearance from the neighbouring Premier Inn, in a similar arrangement to that previously approved.

The proposed building has a main entrance fronting onto Southernhay Gardens alongside the existing gym situated next door. The ground floor would contain a breakfast room but there are no kitchen facilities associated with this hotel development. A total of 12 rooms (the previous refused scheme had 13 bedrooms) would be located on the ground floor with associated storage, linen store and lift/stairway. The next four floors would follow the same layout containing 19 bedrooms on each floor. The sixth floor would contain 14 rooms (the previously refused scheme had 15 rooms).

The main changes made since the previous refusal are the reconfiguration of the layout of the southern section of the proposed building closest to the Meeting House and the re-orientation of the rear windows. The revised plan reduces the building's footprint by an area of approximately 10 sq metres and positions it 2.4 metres from the boundary with the Meeting House. This has reduced the number of bedrooms on the ground and top floor from 15 to 14. However the re-orientation of the rooms to face south rather than east towards Pavilion Place has resulted in the number of rooms on the first to fourth floor remaining the same at 19. In addition all the south facing room windows have been angled to prevent a direct view of the Meeting House and its grounds.

The proposed building is to be constructed of red brick to match the adjacent Premier Inn building with zinc coloured cladding at the upper levels.

The applicant has indicated that the hotel customers will have access to the 167 space basement car park which also contains cycle parking provision.

The site is located within the Southernhay Conservation Area.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

A Design and Access Statement and Planning and Economic Impact Statement has been submitted with the application.

Design and Access Statement update

Concerns were raised with the previous application regarding massing towards the rear of the site and potential overlooking problems for the Quaker Meeting House. Current proposals reduce the overall height of the building to within 200mm of the original consented scheme and massing has been reduced to the proposed accommodation above the car park means of escape which would significantly reduce the impact when viewed from the Court's car park and the Quaker Meeting House.

More significantly fenestration has been amended with oblique set glazing to the south elevation which directs views away from the Meeting House gardens as shown on the site plan which retain its existing privacy. Similarly obscure glazing is proposed to the north east elevation maintaining privacy to the Court accommodation.

Planning and Economic Impact Statement key considerations and conclusions:

Need and demand for hotel bedspaces

- The 2007 Exeter Hotels study estimate the need for an increase in available bed spaces in Exeter of 36-53 rooms per annum until 2021. It was acknowledged by the consultants that this estimate was conservative in the light of operator interest in 2007. The actual rate of delivery to 2016 has been in excess of these estimates and equates to an average of around 83 bedrooms pa.*
- Market demand for sites for hotels remains buoyant with a range of innovative formats coming forward. This is matched by a continuing demand for bed spaces for both business and tourist visitors.*

Need and demand for offices

- Offices within the development, whether built or proposed have been marketed at various stages by Maze Consultants, Wilkinson Grant, Stratton Creber and Croft Surveyors since the grant of the 2008 planning permission. Flexible terms have been offered including rent free periods and rent with option to buy. In addition potential occupiers such as the law courts for use as Chambers have been targeted without success.*
- All the above agents can produce reports of the marketing strategy and the degree of interest shown. However the overwhelming view is that there is no interest or demand for offices in this location sufficient to sustain a speculative development. The Dean Clarke House development has delivered a number of small office units during the various development phases.*
- The continuing market failure with regard to demand for offices has also meant that funding for speculative office development has for some time reached a point where banks will only fund office development where there is a pre-let in place.*

Planning policy position

- The local plan proposals map shows the site as 'white land' and specifically allocated for employment use. The Core Strategy recognises the need to ensure a mix of uses within the City Centre whilst safeguarding key employment sites. Previous planning permissions for the Dean Clarke House complex have delivered a range of uses however the take up of office space has been extremely poor.*
- The local plan via Policy TM1 seeks to support hotel development. The Core Strategy makes no specific reference to hotels and no allocations are made via the proposals map. Policy CP2 acknowledges the potential for loss of employment for other uses where no harm to business or employment opportunities would arise. It is difficult to conclude what these*

may be in the light of the history of this site particularly where planning permission was granted for hotel development on the greater proportion of the site. The residue of the site represents approx 25% of the larger one time employment site where the principle of an alternative use has already been conceded without harm, as identified in Policy CP2, having been demonstrated.

- The NPPF is clear that long term protection of sites allocated for employment should be avoided and applications for alternative uses should be treated on their merits

- In the circumstances we believe there is no policy case for the retention of this residue site for employment purposes.

Economic Benefits

- The above assessment demonstrates that the significant beneficial financial impact arising from the proposed development. These are assessed as 28.5 permanent full time jobs; an additional £0.65m pa of economic activity derived from salaries; £1.09m pa of travellers expenditure and support for a range of smaller businesses via the supply of goods and services.

Conclusions

- Under current market conditions there is no prospect of an office being built in this location. The site is a small isolated site in development terms and therefore an office development cannot be linked to more profitable development options as is possible on a site such as the bus and coach station. Furthermore there is a significant bank of employment consents in more preferable location such as Matford Phase III, Science Park and Sky Park to name the largest.

- The planning policy position does not preclude hotel development in this location. Both the Core Strategy and the NPPF require the identification of any demonstrable harm to substantiate a planning refusal. It is concluded that no harm would arise from the proposed development. Furthermore a scheme of this nature is the only one for which finance would be available other than for some form of residential development.

- Development of the wider Dean Clarke House has delivered the mix of uses sought by the Council, including restaurant, hotel, barrister's office, residential, small offices, luxury flats with a concierge service and dentist. The only significant problems experienced in bringing forward various aspects of this wider site has been delivery and letting of the office element. We therefore believe the redevelopment of this remaining site for a hotel would complete the development around this important listed building Dean Clarke House and add further to the vitality and viability of Exeter City Centre.

REPRESENTATIONS

16 objections received (6 from the users of the Quaker Meeting House) and includes representations from the Exeter Civic Society. Principal issues raised:-

1. Overdevelopment of the site;
2. Building higher than originally approved;
3. Scale and height of building fails to take account of the stepped character of the building forms in the
4. Character and quality of life to those who live and works in the area would be reduced;
5. Design of the building poor; external appearance inappropriate within the conservation area;
6. Overlooks and reduces privacy levels to adjacent residential properties and users of the Meeting Ho
7. Loss of light to neighbouring property;
8. Too many windows facing onto the adjacent buildings leading to increased potential for overlooking
9. Footprint of the building greater than the approved plan;
10. Hotel would create potential for noise disturbance 24/7 and at a greater level than the approved of
11. Building too close to the Quaker Meeting House;
12. Overshadow adjacent buildings;
13. Too close to Courts Building and Quaker Meeting House Building;
14. Too many hotels already in the area;
15. Need to retain employment site in the city centre;
16. Too few employment opportunities created by hotel use;

17. Submitted information regarding employment generated misleading;
18. Introduction of angled windows will increase visual scale and massing of building.

CONSULTATIONS

The County Head of Planning, Transportation and Environment comments that in response to the previous application it was considered that although of a greater floorspace than the offices the use would be expected to generate less vehicle travel demand. As this application is for a similar sized, albeit slightly smaller hotel, circumstances have not significantly changed at this location since the previous submission. Therefore it is recommended that the conditions that were recommended for the previous application relating to the provision of secure cycle parking, Travel Plan Statement for staff travel and a Construction Method Statement are imposed as part of any permission.

South West Water raise no objection.

The Head of Environmental Health raises no objection subject to conditions in respect of the need for Construction Environmental Management Plan and a noise assessment.

Historic England comments that the scheme will not adversely affect the highly graded elements of the historic environment.

Devon Flood and Coastal Risk Management Team comments that the applicant should provide a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere in accordance with the principles of Sustainable Drainage Systems.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance - National Planning Policy Framework

- 4. Promoting sustainable transport
 - 7. Requiring good design
 - 11. Conserving and enhancing the natural environment
 - 12. Conserving and enhancing the historic environment
- Plan making
Decision making

Exeter Local Development Framework Core Strategy

- CP1 - Spatial Approach
- CP2 - Employment
- CP9 - Transport
- CP11 - Air Quality
- CP14 - Using Low Carbon and Renewable Energy
- CP15 - Sustainable Construction
- CP17 - Design and Local Distinctiveness
- CP18 - Infrastructure

Exeter Local Plan First Review 1995-2011

- AP1 – Design and Location of Development
- AP2 - Sequential Approach
- T1 - Hierarchy of Modes
- T2 - Accessibility Criteria
- T3 - Encouraging Use of Sustainable Modes
- DG1 - Objectives of Urban Design
- DG2 - Energy Conservation

DG7 - Crime Prevention and Safety
T10 – Car Parking Standards
C5 - Archaeology
EN2 – Contaminated Land
E3 - Retention of Employment Land or Premises
TM1 - Hotel Development

Development Delivery Development Plan Document (Publication Version) 2015

This document represents a material consideration but has not been adopted and does not form part of the Development Plan.

DD1 - Sustainable Development
DD2 - Employment Land Provision
DD3 - Retention of Employment Land
DD17- Hotels
DD20 - Sustainable Movement
DD21 - Parking
DD25 - Design Principles
DD26 - Designing Out Crime
DD28 - Heritage Assets
DD34 - Pollution

Exeter City Council Supplementary Planning Documents:-

Sustainable Transport March 2013

Southernhay and The Friars Conservation Area Appraisal and Management Plan August 2002.

OBSERVATIONS

Members refused a similar application for hotel use in March 2016. This amended scheme is for a reduction in proposed numbers of the hotel rooms; a smaller overall footprint and height of building; the reorientation of rooms and revisions to the design, principally to the rear elevation. In addition, an economic impact statement has been submitted with the application. Members will recall that the application formed part of the site previously approved under a mixed scheme for a hotel and office use. The hotel development which represented Phase 1 of the scheme has been completed and is now open as Premier Inn. However as the Phase 2 office element had received little interest from prospective developers since its approval in 2012 the applicant has consequently submitted a scheme for hotel use. This report will assess the additional information provided by the applicant which seeks to address the reasons for refusal.

Loss of Employment land

The applicant has provided a Planning and Economic Impact Statement to address the concerns raised about the harmful impact the loss of a potential employment site would have on business and employment opportunities in the city. Whilst the report reiterates the low level of demand for office use in the area, it also highlights the need for hotel accommodation in the city, the planning policy position and the economic benefits which would arise from this development. A summary of these benefits are contained within the supporting information section. This background document draws attention to NPPF paragraph 22 which states that *'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities'*. It is accepted that city centre office demand is low and therefore consideration of alternative suitable uses is appropriate. Given the approval of the hotel

development on the adjacent site it would be difficult to resist the same use alongside. In addition, it is accepted that a hotel use provides a complementary function to the office uses in the area. Whilst it is disappointing that the office accommodation has not been forthcoming it is important to note that the development of a hotel is supported by Local Plan First Review Policy TM1 and therefore it is considered that the principle of a hotel use in this location is acceptable.

Impact of the building on Heritage Assets

The second refusal reason related to the impact of the scheme on the Southernhay Conservation Area and the setting of Dean Clarke House a Grade II* listed building. Members are advised that the statutory duty in matters of the setting of listed buildings and conservation areas under Section 66 and 72 of the Planning (Listed Buildings 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 proposed 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*'

It is considered that the use is acceptable in this location as stated in the previous paragraph and the floorspace proposed represents the maximum which could be achieved without having a detrimental effect on adjacent buildings.

The application site would be partly screened by the new Premier Inn building from Southernhay but would still be prominent from Western Way and Magdalen Road and when viewed alongside the existing Courts building. In addition, the site can be seen from surrounding residential streets, in particular Pavilion Place, which lies adjacent to the site. Consequently the site requires a suitably designed building to accord with its Conservation Area designation and setting of nearby listed buildings.

The proposed red brick and zinc cladding is appropriate as it will match the adjacent Premier Inn. The window sizes and their arrangement including, the proposed angled windows to the rear, are deemed acceptable when viewed alongside the existing the hotel. To address the previous concern regarding the proposed building's impact on the setting of Dean Clarke House, its overall height has been reduced by 0.5 metres. The elevational treatment contains an appropriate level of visual and design interest when viewed from Western Way and it is considered that this is helped by the proposed tower section on the south east section of the building, which visually breaks up what could appear as a flat elevation. The overall design is still considered to be similar to the originally approved office scheme and the changes that have been made complement the proposed building. It is considered that the scheme meets the requirements as set out in statues and NPPF paragraph 134 and is therefore appropriate within its conservation area location and its relationship to listed buildings, a view shared by Historic England who have raised no objection to the scheme.

Impact of use on adjacent Meeting House

The previous application attracted many objections from the members of the adjacent Quaker Meeting House. The Meeting House does not contain windows within its northern elevation and therefore there would be no opportunity for direct overlooking into this building from the new hotel use. In addition, the relationship of the new hotel would be similar to the existing arrangement of the recently completed Premier Inn. However the objections specifically centred on the potential for overlooking into the gardens of this building.

A section of the Meeting House garden contains existing evergreen trees and therefore the potential for overlooking from the new hotel is likely to be minimal, as the trees would help to screen any activities within this part of the garden from view. However to address the problems specifically raised in the reason for refusal, the applicant has change the design of the windows facing towards the Meeting House. The revised scheme shows the windows

angled away from the gardens of the Meeting House and therefore there is no opportunity of overlooking. In addition, the changes in the re-configuration of the floor plan has resulted in an improved relationship with Pavilion Place as the proposed windows are now within in the southern elevation and not directly facing these properties. Accordingly it is considered that the issue of overlooking has been addressed by the revised plans and the previous refusal reason on these grounds can no longer be substantiated.

Other issues

Previously the Court's representatives raised specific concerns regarding the development in terms of overlooking into the Court building, potential threat to security and the need to maintain unrestricted vehicular access which may be hampered by the construction work. The revised application continues to indicate rooms which are now to include obscure glazing to prevent overlooking into the Courts building and this can be controlled by a condition. In respect of the construction works it is considered that a Construction Environment Management Plan would address this matter, which can also be controlled by a planning condition.

Conclusion

Whilst it is disappointing that the anticipated office use has not been forthcoming, it is considered that the use would be beneficial and provide additional hotel rooms within the city as supported by development plan policies. It is considered that the revised planning and economic impact statement has provided sufficient justification against the loss of a relatively small area of potential employment space and the scheme would not compromise the overall employment strategy for the city. It is considered that NPPF paragraph 22 is particularly important as it states that alternative uses should be approved rather than a site remain vacant if there is no reasonable prospect for employment use being forthcoming, as stated and accepted in the applicant's economic statement. In respect of the impact of the scheme on heritage assets, NPPF paragraph 134 is relevant and it is considered that the scheme's design does pay due regard to this matter and does not cause harm to heritage assets identified in the area, namely the Southernhay Conservation Area and Dean Clarke House. In addition, the introduction of the angled windows which now face away from the Meeting House has removed the potential for overlooking into the grounds of this building and consequently creates an acceptable arrangement. On the basis of the above it is therefore considered that this application should be approved.

DELEGATION BRIEFING

7 June 2016 - Members were advised that the applicant had submitted additional information and plans to address the three previous reasons for refusal and that the application would be reported to Planning Committee on 27 June.

RECOMMENDATION

APPROVE subject 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 13 May 2016 (dwg no. 1893 026; 1893-21 A; 1893-22 rev D; 1893-23 rev D & 1893-23 rev D) as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) C17 - Submission of Materials
- 4) Prior to any works commencing on site, a Construction Environmental

Management Plan (CEMP) which shall include details of construction traffic management relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimize the creation and impact of noise, vibration, dust, waste resulting from the site preparation and construction phases of development. Once approved the CEMP shall be adhered to at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the environment of the site and surrounding areas.

- 5) No construction work shall not take place outside the following times: 8 am to 6pm Monday to Fridays, 8am to 1 pm on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity.

- 6) No part of the development shall be occupied until a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To maximise the opportunities for sustainable travel to and from the site, in accordance with Paragraph 36 of the National Planning Policy Framework.

- 7) Prior to commencement of the development a noise impact assessment shall be submitted to and approved in writing by the Local Planning Authority. This report shall consider the impact of noise from the development on local receptors and shall include noise from plant and equipment as well as noise from deliveries, guests and events. If, following the above assessment further noise mitigation measures are required, the applicant shall then submit a scheme of works to ensure that the development does not have a significant negative impact on local amenity. These measures shall be agreed in writing by the Local Planning Authority and shall be implemented prior to and throughout the occupation of the development.

Reason: In the interests of residential amenity and to safeguard the working conditions of employees working in the vicinity of the site

- 8) Prior to commencement of the development, details shall be submitted to the Local Planning Authority of secure cycle parking provision for the development. Development shall not be commenced until such details have been agreed in writing by the Local Planning Authority, and prior to occupation the cycle parking shall be provided in accordance with the submitted details and maintained for those purposes thereafter.

Reason: To provide adequate facilities for sustainable transport.

- 9) The building shall not be used for intended purpose until the details of the non-opening obscure glazing to be installed within the north east elevation of the proposed building has been submitted to and agreed in writing with the Local Planning Authority and thereafter maintained in accordance with these details at all times.

Reason: To safeguard the amenities of the nearby Courts building and prevent overlooking and loss of privacy.

- 10) Notwithstanding the requirements of Condition 2 of this planning permission, no work shall commence on either phase of development hereby approved until full details of the following, insofar as they relate to that phase of development, have been submitted to and approved in writing by the Local Planning Authority and the following shall thereafter be provided in accordance with such details:

- a) windows to include materials, means of opening, reveals, cills and headers;
- b) external doors;
- c) rainwater goods;
- d) lighting;

- e) treatment of boundaries;
- f) refuse storage;
- g) CCTV cameras and location;

Reason: Insufficient information has been submitted with the application and in the interests of visual amenity.

- 11) No development shall take place unless and until details of bat and swift boxes have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out entirely in accordance with the approved plan.

Reason: To ensure that the wildlife opportunities associated with the site are maximised in the interests of biodiversity.

Local Government (Access to Information) 1985 (as amended).

Background papers used in compiling the report:

Files of planning applications available for inspection from the Customer Service Centre, Civic Centre, Paris Street, Exeter: Telephone 01392 265223