

**COMMITTEE DATE:** 03/09/2018

**APPLICATION NO:** 18/1031/ECC  
**APPLICANT:** Ms Lynda Smith  
**PROPOSAL:** Change of Use to winter night shelter and community facility for homeless people (Sui Generis).

**LOCATION:** Former Restaurant, Magdalen Street, Exeter, EX2 4HZ

**REGISTRATION DATE:** 04/07/2018

**EXPIRY DATE:**

**SITE HISTORY**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>11/0337/ADV</b>	Externally illuminated fascia signs on north and south elevations, non illuminated fascia signs on west (2) and east elevations.	PER	24.01.2012
<b>01/1303/ADV</b>	Externally illuminated and non illuminated signs (13 No.in total)	PER	26.10.2001
<b>94/0089/FUL</b>	External alterations including provision of new entrance on north elevation	PER	24.03.1994

**DESCRIPTION OF SITE/PROPOSAL**

Permission is sought for the use the existing building situated on Magdalen Street, at the eastern end of the Acorn car park, as a winter night shelter and community facility for homeless people in Exeter.

**Winter Night Shelter**

Sleeping accommodation would be provided between October until end of March. It would in the form of dormitory style rooms on the first floor with either two or three sets of bunk beds per room providing a total of 18 bed spaces. A further 8 beds will be located on the ground floor. In the event of the Severe Weather Emergency Protocol being declared there would be additional capacity available at the shelter.

**Community Facility for the Homeless**

The community facility will provide educational and recreational opportunities for homeless people in the city, promoting and improving general health and wellbeing. The use of the Community facility is mainly proposed during the period when the building is not used as a winter Night Shelter during April until September.

**The Building and Site**

The site is within the City Centre boundary. The vacant building was formerly the Spice Island Restaurant on the ground floor with living accommodation above. The old Acorn Inn, in the same location, was demolished and a new public house built 1964 with internal and external alterations in 1994. The building is located within Southernhay and The Friars Conservation

Area and is deemed to have a Negative Contribution to the area. The site, including the Acorn carpark and the roads surrounding the building, are also noted within the conservation area appraisal noted as Negative Spaces. The site is within the area of Environmental Air Quality Management. The nearby Hotel du Vin (Former Exeter Eye Hospital) is Grade II listed.

### **SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT**

Planning Letter

Tender Documentation

### **REPRESENTATIONS**

Four representations have been received. There are two objections and two representations in support for the application.

The letters of objection had the following concerns and reasons to refuse the proposed use:

- Noise, disturbance and nuisance
- Overlooking
- Lack of outside provision causing congregation
- Fear of crime of and drugs
- Unsafe environment
- Anti-social behaviour
- Negative impact on business

The objectors also argued that this was not the right location for the proposed use.

The letters of support had the following reasons for granting permission for the proposed use:

- Positive to the creation of a night shelter
- Suitable location
- Situated on a traffic island and former pub so difficult to see it causing problems
- Common decency, leaving people to suffer and potentially die of exposure of winter when it can be prevented is inhumane
- Path to receive necessary help with health, some with mental health issues, thereby contributing to the health in the community
- It will help in tackling inequalities in health, social care, housing and education & improving access to health and social care
- Night shelter should be provided all year round, not having access to freezers, cooking and bathing facilities can be a severe problem
- People will struggle to leave behind homelessness if there are not accessible routes to doing so and this project looks like it will help offer opportunities for such

### **CONSULTATIONS**

**Devon and Cornwall Police - Designing Out Crime Officer** has no objection to the change of use but has offered to meet with the applicant to discuss their advice in more detail.

**Highway Development Management Officer (Exeter) at Devon County Council** has no objections to the change of use.

**The Environmental Health Officer** has no objection to the change of use.

## **PLANNING POLICIES/POLICY GUIDANCE**

### **Central Government Guidance**

National Planning Policy Framework 2018

### **Exeter Local Development Framework Core Strategy 2012**

CP10 – Community facilities

CP11 – Pollution and air quality

CP17 – Design and local distinctiveness

### **Exeter Local Plan First Review 1995-2011 Saved Policies**

AP1 – Design and location of development

AP2 – Sequential approach

T9 – Access to building by people with disabilities

C1 – Conservation areas

C2 – Listed buildings

EN3 – Air and water quality

DG4 – Residential layout and amenity

DG7 – Crime prevention and safety

### **Exeter Development Delivery Document – Publication Version 2015**

DD13 – Residential Amenity

DD26 – Designing out Crime

DD28 – Heritage Assets

DD34 – Pollution

### **Exeter City Council Supplementary Planning Documents**

Residential Design SPD 2010

### **Conservation Area Appraisals and Management Plans**

Southernhay and the Friars 2002

## **OBSERVATIONS**

The change of use to a winter night shelter and community facility for homeless people is regarded as a Sui Generis use. The use for this building has previously been a public house but this was difficult to sustain and more recent uses have been as a restaurants, bars and take-away, as well as serving alcohol. The change of use is not irreversible because no internal alterations but the future for this site will unlikely include the existing building. The conservation area appraisal proposed that the building “should be considered for the enhancement of the conservation area by the removal, redevelopment or remodelling”.

As well as providing a community facility for homeless people it will also be compliant with the protection and provision of community use in the Exeter Local Development Framework Core Strategy Policy CP 10. The proposed use will, with regard to CP10, meet the community needs by promoting social inclusion and reduce deprivation. The policy also states that facilities that serve the city as a whole should be located in the city. Social inclusion can be defined as the act of making all groups of people within a society feel valued and important. To be able to convert an existing building the winter into night shelter and community facility for homeless people is therefore preferred when compared with alternatives that only provide night shelter in mobile and temporary buildings.

The central location is very suitable for the proposed use. In view of its suitable location it can

be an alternative to rough sleeping in the central part of Exeter. During the rest of the year the location enables the support of the community of homeless people in Exeter. The location is also suitable with regard to residential amenity and neighbouring properties. The overlooking is not contrary to the guidance in the Residential Design SPD. Overlooking between the hotel and proposed night shelter is minimal and no more detrimental than the former use of the building. Although the site is within the area of Environmental Air Quality Management due to the nature of this as temporary short stay shelter during the winter months, sleeping accommodation is acceptable for the use with no objection from the Environmental Health Officer.

The former use had late opening times, served alcohol and even had a take-away. It is therefore difficult to see how the proposed use would be more detrimental to the surrounding area than the former use. The area outside the building is the same as when it was used as public house except a small area to congregate is created at the south entrance of the building. The location of the building is also in a noisy area situated on a frequently used car park surrounded by busy roads.

The night shelter will be staffed by a minimum of two workers during opening hours. The staff would also have responsibility for ensuring the safety of service users throughout the night as well as monitoring behaviour to ensure compliance with the accommodation rules; and work closely with the surrounding community and ensure that all efforts are made to reduce the impact on community and businesses. Any nuisance from congregation outside the building will be dealt with as part of these rules. To ensure compliance with the above a condition will be added to the planning permission that requires a Management Scheme that will deal with anti-social behaviour, noise, fires and other emergencies.

Crime and fear of crime is a material planning consideration and it is acknowledged that some residents and the nearby hotel are apprehensive about such a facility operating in the area. In their consultation response, Devon and Cornwall Police have not objected to the proposed scheme and have offered to work with the applicants to give advice with the set up of the facility in order to reduce the risk of crime and anti-social behaviour. The fear of crime and personal safety is raised by objectors but the result might actually be the opposite giving the homeless an alternative to rough sleeping and support in their current situation. The existing issues with rough sleeping in the City Centre could well be reduced. The change of use does conform to Policy DG7 – Crime Prevention and Safety in Exeter Local Plan First Review 1995-2011 by the prevention measures for the site and surroundings; and also with the purpose of the policy by improving the situation for rough sleepers in general.

Although the proposed use has primarily a social objective it does have an impact how people visiting or work experiencing the City with less rough sleepers. How people experience a City which does care for homeless people could have a direct impact on shopping and tourism but could also influence how attractive the City is to work and live in.

The change of use will conform to NPPF, Exeter Local Development Framework Core Strategy, Exeter Local Plan First Review 1995-2011, Exeter City Council Supplementary Planning Document and Exeter City Council Development Delivery DPD. The conclusion is that the change of use will have a minor impact on the surrounding area but a great public benefit by contributing to social inclusion, reduce deprivation and support homeless and rough sleepers when they are most vulnerable and at risk of becoming seriously ill or even die due to exposure to freezing temperatures.

A planning decision must be made in accordance with material considerations and taking

account of the positives and negatives of granting consent for this proposal, the conclusion is that the positives heavily weigh in favour for the proposed change of use.

## **RECOMMENDATION**

**APPROVE** with following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

**Reason:** To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990.

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 4 July as modified by other conditions of this consent.

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

3) The use hereby permitted shall not commence until the Local Planning Authority has agreed in writing a Management Scheme submitted by the applicant and the agreed measures have been put in place. The Management Scheme shall include the following: A) details of the management arrangements for the property, including procedures for dealing with (i) management problems, (ii) anti-social behaviour, (iii) noise and (iv) fires or other emergencies; and, B) the maximum number of bed spaces to be occupied at any one time. Occupation shall be managed in accordance with the approved scheme.

**Reason:** To help protect the existing residential amenity standards currently enjoyed by neighbouring properties.

*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*