

**COMMITTEE DATE:** 29/07/2019

**APPLICATION NO:** 18/1610/FUL  
**APPLICANT:** Mr Chilvers  
**PROPOSAL:** Demolition of existing single storey business premises and construction of new 9 dwelling residential apartment block  
**LOCATION:** St Andrews Yard, Willeys Avenue, Exeter  
**REGISTRATION DATE:** 27.02.19

### **SITE HISTORY**

There is no planning history relating directly to this proposal. However, in 2002, planning permission was refused for a change of use from office and store (B1, B8) to motor vehicle sales and storage (02/0075/FUL).

### **DESCRIPTION OF SITE/PROPOSAL**

The application site comprises a car sales premises of approx. 800 square metres on the south side of Willeys Avenue. The site is triangular in shape and bounded by Network Rail land to the rear, an end terrace dwelling to the east and other terraced properties on the opposite side of Willeys Avenue. The site includes a single storey office building with a floor area of about 151m<sup>2</sup> situated to the rear of the plot.

Full planning permission is sought for the demolition of the existing office building and the re-development of this brownfield site to provide a 9 dwelling residential apartment block (5 two bed roomed and 4 one bed roomed apartments). The development has a modern flat roof design with two and three storey elements. A gated vehicular access would be provided from Willeys Avenue, with 9 parking spaces and 14 cycle parking spaces to serve the development. Revised plans have been submitted.

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

The following documents have been submitted in support of the application -

- Design and Access Statement
- Level 2 Flood Risk Assessment
- Geo-environmental Desk Study and Ground Investigation Report
- Results of a Desk-Based Assessment & Walkover Survey (Archaeology)
- Environmental Noise Assessment
- Ecological Impact Assessment (Bats and Birds)

### **REPRESENTATIONS**

15 objections (including one from the Civic Society) have been received to the original scheme raising the following issues –

- Design incongruous, not in keeping with area and utilising low quality materials
- Harmful to the character and appearance of the locality and in conflict with Policy CP17 of the Core Strategy

- Height, size and massing not appropriate for the site
- Overbearing, loss of sunlight/daylight and loss of views and outlook (and absence of Daylight Impact Assessment)
- Overdevelopment of site and inappropriate density contrary to policy CP4 of the Core Strategy
- Potential impact on railway line
- Development too close to pavement
- Privacy will be lost contrary to Policy DG4 of the Exeter Local Plan First Review, particularly as a result of balconies and roof terrace
- Noise and disturbance
- Lack of living space for residents of flats
- Highways safety, lack of parking, congestion and disturbance from vehicles
- Ecology impacts and lack of sustainability features incorporated
- Lack of affordable housing
- CIL should be spent on opening a safe footpath under the railway bridge on Alphington Road for cyclists and pedestrians and provision of a play area
- Other uses are more appropriate for this site

A further 14 objections were received in relation to the revised scheme. Whilst some neighbours recognised and welcomed the changes made, most objections were maintained and four new objections received. In addition to the issues listed above, in relation to the amended scheme, the following matters were raised:

- Building remains excessively large
- Building remains unsympathetic to the architectural aesthetics of the neighbourhood and materials not in keeping with the character of the street
- The roof terrace still results in loss of privacy and potential for noise/disturbance
- Rear balconies remain and will have amenity impacts
- Development will encroach on the pavement

## **CONSULTATIONS**

**County Head of Planning, Transportation and Environment** – No objections in principle of re-development of the site. Access for vehicles, pedestrians and cyclists is considered acceptable. The level of traffic generation from the site is expected to be modest and the parking provision is sensible especially given the proximity to public transport. Conditions are recommended to ensure parking, turning area and cycle parking provision.

Devon Country Council also seek an education contribution (provided through CIL) to mitigate to for the impacts of the development.

**Environmental Health** – No objections in principle subject to conditions requiring a Construction Environment Management Plan (CEMP), contamination investigation, and sound attenuation in accordance with the submitted Environmental Noise Assessment.

**Network Rail** – No objections in principle to this proposal but make recommendations for considerations to be taken into account to protect railway infrastructure.

**Environment Agency** – The Environment Agency originally objected to this application on flood risk grounds as the drawings did not demonstrate that people and property would be safe from flooding over the lifetime of the development.

However, following the revision of the design and layout and the submission of a FRA addendum the Environment Agency accept the conclusions and recommendations to deal with Flood Risk and remove their objection.

The Environment Agency also recommend a contamination condition to protect controlled waters.

**Exeter Cycling Campaign** – Objected to the original proposal on the basis of insufficient provision for people who wish to use bikes. They state that the minimum provision to accord with the Sustainable Transport SPD is 18 spaces.

**Principle Project Manager (Heritage)** – The original church building has been destroyed and the present building does not retain sufficient interest to merit retention; the submitted assessment represents a sufficient record of it. The only likely archaeological interest on the site will be in the form of potential prehistoric or later palaeochannels; if present such deposits should be recorded and analysed in lieu of the impact on them caused by new development

## **PLANNING POLICIES/POLICY GUIDANCE**

### **Central Government Guidance**

National Planning Policy Framework (NPPF) – with particular regard to sections

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

National Planning Policy Guidance (NPPG)

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

- CP1 – The Spatial Approach
- CP3 – Housing Distribution
- CP4 – Density
- CP5 – Meeting Housing Needs
- CP7 – Affordable Housing
- CP9 – Transport
- CP11 – Pollution and Air Quality
- CP12 – Flood Risk
- CP14 – Renewable and Low Carbon Energy in New Development
- CP15 – Sustainable Construction
- CP16 – Green Infrastructure, Landscape and Biodiversity
- CP17 – Design and Local Distinctiveness
- CP18 – Infrastructure
- CP19 - Strategic Allocations

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

AP1 – Design and Location of Development

AP2 – Sequential Approach

H1 – Search Sequence

H2 – Location Priorities

H5 – Diversity of Housing

H7 – Housing for Disabled People

T1 – Hierarchy of Modes

T2 – Accessibility Criteria

T3 – Encouraging Use of Sustainable Modes

T5 – Cycle Route Network

T9 – Access to Buildings by People with Disabilities

T10 – Car Parking Standards

C5 – Archaeology

LS1 – Landscape Setting

EN2 – Contaminated Land

EN4 – Flood Risk

EN5 – Noise

DG1 – Objectives of Urban Design

DG4 – Residential Layout and Amenity

DG5 – Provision of Open Space and Children's Play Areas

DG6 – Vehicle Circulation and Car Parking in Residential Development

DG7 – Crime Prevention and Safety

## **Development Delivery Development Plan Document (Publication Version) (DDDPD):-**

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

DD8 - Housing on unallocated sites

DD13 – Residential Amenity

DD21 - Accessibility and sustainable movement

DD25 – Design Principles

DD26 – Designing out crime

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

Residential Design SPD

Planning Obligations SPD

Sustainable Transport SPD

Trees in Relation to Development SPD

Archaeology and Development SPD

## **OBSERVATIONS**

The application proposes re-development of an unattractive brownfield site within the urban area and in close proximity to sustainable means of transport. The principle of residential development on this site is therefore considered appropriate. The other main considerations in respect of this proposal are design, amenity, highways issues and flood risk.

## **Design and urban form**

The application proposes a two and three storey development graduating up from the adjacent two storey terraced properties. Whilst many residents have objected in principle to a three storey development, and would prefer to see traditional two storey terraced properties, the National Planning Policy Framework and the Statutory Development Plan require that we make efficient use of brownfield sites and maximise the contribution they make to the housing shortfall. Paragraph 118 states that Local Planning Authorities should 'promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively'. Paragraphs 122 and 123 of the NPPF also stress the importance of achieving appropriate densities. This site is in close proximity to public transport and three and four storey development already exists on this street; therefore it would not be reasonable to object to the proposed form and massing of this proposal.

The existing car sales site is unattractive and has a negative impact on the appearance of the area. Whilst the application proposes an apartment block with a modern flat roof that many residents feel is not in keeping with the traditional pitched roofs of the terraced properties, the revised plans show a development with good design detailing. The revised plans also show a development that is set back from the pavement edge for most of the development frontage and this will allow for planting to soften the appearance of the development. There is also movement in the frontage as it steps back and down and this adds interest. The proposed materials pick up on the red brick and buff brick of the adjacent terraced properties. Accordingly the development is considered to comply with the NPPF paragraph 127 and policy DG1 of the Local Plan First Review, and policy CP17 of the Core Strategy.

Conditions will be attached to ensure the materials are appropriate and that landscaping is provided to the frontage and to the open areas.

## **Amenity Issues**

Neighbours have voiced concerns regarding the overbearing, overlooking and loss of outlook and privacy that will result from this two and three storey development. However, most dwellings in the urban area have properties on the opposite side of the road and often two storey development faces three storey development; whilst this relationship does result in some adverse amenity impacts it is not considered abnormal or unacceptable.

Of particular concern to neighbours was the impact of the front balconies in relation to the potential for overlooking at noise and disturbance. The revised scheme has deleted all the front balconies and replaced these with Juliette style windows. Most of the development frontage has also been set back from the pavement giving a greater degree of separation (similar to the window to window distances between the existing terraced properties). However, the revised proposal still includes a roof terrace for the top floor apartment and whilst significantly reduced in size, this remains a concern for neighbours. Whilst there will be some potential for overlooking and perceived overlooking, the roof terrace is set back 3 metres into the development and includes a 1.8m screen to the side and is obscure glazed to the front and side. On balance therefore the overlooking is considered acceptable. Some neighbours are also concerned about the rear facing balconies; however, the rear balconies look over the railway and are screened from neighbouring residential properties.

It is considered that the residents of the proposed development will have reasonable levels of amenity. The National space standards are met for all the apartments, a communal garden area will be provided and Environmental Health are satisfied that that the

development can be constructed in such a way as to ensure acceptable noise levels. Bin storage is provided in accordance with Council standards.

### **Highways Issues**

The development provides 9 parking spaces (one for each apartment) on the ground floor of the development through a gated access. The access position is unchanged and the Highways Authority consider the visibility is acceptable. The level of parking provision is considered reasonable and the Highways Authority state that given the previous use there is likely to be a slight positive highway impact. Therefore whilst a number of local residents are concerned about highway issues the development appears acceptable in this regard.

The level of cycle provision was not clear on the original proposal and Exeter Cycling Campaign objected on this basis. The revised plans show a development with safe covered parking for 18 cycles and this meets the standards set out in the Sustainable Transport SPD.

### **Flood Risk**

The site is Flood Zone 3 wherein there is a high risk of flooding (a 1 in 100 or greater annual probability of river flooding). The development must therefore pass the sequential test and the exception test.

Whilst there are sites at lower flood risk the council considers that this brownfield site within the urban area and in a highly sustainable location meets the sequential test. The first part of the exception test is also passed as the development is considered to offer wider sustainability benefits that outweigh the flood risk. The Environment Agency initially advised that the development did not satisfy the second part of the Exception Test; however, following revisions to the design and layout the Environment Agency confirmed it has no objection to the proposal.

### **Other issues**

**Ecology:** The Ecology Assessment for bats and birds concludes that the site was of low ecological interest with no adverse impacts predicted on roosting bats or other protected/notable species. The works should be carried out in accordance with the timing and mitigation and enhancement measures outlined in the Assessment, and this will be required by condition.

**Heritage Assets:** Although the recent history of the site as a mission church and hall is interesting, the original church building has been destroyed and the present building does not retain sufficient interest to merit retention; the assessment represents a sufficient record of it. To ensure any archaeological remains are recorded a condition should be attached to the grant of planning permission.

**Financial Considerations:** The CIL 'Liability Assumption' form and the 'Additional Information Requirement Form' have both been submitted. The net additional gross internal floorspace is 588m<sup>2</sup> and therefore CIL payable at the 2019 CIL rate (£113.57 per sq m) is £66,779.16. The development will also generate New Homes Bonus.

**Appropriate Assessment:** A Habitat Regulations Assessment has been undertaken. This concludes that whilst the development has the potential for have a significant effect on a European site, the impacts of the development can be mitigated through top-slicing receipts from CIL to contribute towards the implementation of measures in the South East Devon European Site Mitigation Strategy.

## **Conclusion**

The principle of redevelopment of this brownfield site in a highly sustainable location is acceptable. In accordance with the NPPF it is important that we seek to maximise density and delivery of homes on this type of site. With reference to this guidance and also to the contribution that this site would make to housing delivery (having due regard to the weight to be attached to the fact that the Council is unable to demonstrate a 5 year supply of housing land), the proposal for 9 apartments is considered acceptable.

## **RECOMMENDATION**

Approval subject to the 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 25 June 2019 (including dwg. nos. 553 003 C, 553 004 E, 553 005 E, 553 006 E, 553 007 D, 553 040 A) and the Ecological Impact Assessment and the Flood Risk Assessment Addendum received on 4th July 2019 as modified by other conditions of this consent.

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

3. Pre-commencement condition: No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

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

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) No burning on site during construction or site preparation works.
- i) Measures to minimise noise nuisance to neighbours from plant and machinery.

- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the LPA.

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

Reason – In the interests of residential amenity.

5. Pre-commencement condition: No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

Reason: In the interests of the amenity of the occupants of the buildings hereby approved and to protect controlled waters.

6. Pre-commencement condition: Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.

Reason: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

7. No part of the development hereby approved shall be brought into its intended use until vehicular spaces and turning area as indicated by *Drawing Number 553 030 REV E* 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 provide a safe and suitable access, in accordance with Paragraph 108 of the National Planning Policy Framework.

8. No part of the development hereby approved shall be brought into its intended use until secure covered cycle parking provision as indicated by Drawing Number 553 XXX REV X has 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 provide adequate facilities for sustainable transport.

9. Prior to the first occupation of the development hereby permitted, a Management Scheme, to cover management and maintenance of communal areas, including communal landscaped gardens, car and cycle parking and bin storage, shall be submitted to and approved in writing by the Local Planning Authority. The content of the Management Scheme shall include:

- a) details of areas to be managed

- b) aims and objections of the Scheme
- c) management actions
- d) delivery mechanism
- e) the body responsible for implementation of Scheme

The Management Plan shall also include details of the legal and funding mechanism to ensure long-term implementation. All post-construction site management shall be undertaken in accordance with the Scheme.

Reason: In the interests of the amenity of residents and the character and appearance of the area.

10. A detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

11. The development as built shall achieve at least the level of sound insulation specified in the submitted report (Acoustic Associates South West, 31 August 2018, Environmental Noise Assessment for New Flats, St Andrews Yard), including the provision of an attenuated mechanical air supply.

Reason: In the interests of residential amenity

**Informatives:**

1) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim

any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).

4) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission

5) The applicant's attention is drawn to the requirements of Network Rail set out in their emailed communication dated 23 April 2019.