

Planning Committee Report 22/1223/FUL

1.0 Application information

Number: 22/1223/FUL
Applicant Name: Mr Chilcott, Zenal Management Ltd
Proposal: Replacement of existing garage, forecourt and retail units with a mixed-use development including residential and commercial (Revised plans).
Site Address: 58 Main Road
Pinhoe
Exeter
Registration Date: 7 September 2022
Link to Documentation: <https://exeter.gov.uk/planning-services/permissions-and-applications/related-documents/?appref=22/1223/FUL>
Case Officer: Zulema Nakata
Ward Member(s): Cllr David Harvey, Cllr Mollie Miller, Cllr Duncan Wood

REASON APPLICATION IS GOING TO COMMITTEE

In accordance with the Delegation Briefing decision made on 3rd October

2.0 Summary of recommendation

GRANT permission subject to conditions as set out in report.

3.0 Reason for the recommendation:

The impact on amenity has been mitigated though appropriate back-to-back separation distances. The development's position is also at a reasonable distance and at an obscure angle in relation to the existing neighbouring residential properties to the rear.

Furthermore, the Highway Authority have confirmed that they support the provision of a car free scheme despite there not being a control parking zone in operation, the majority of residential properties in close proximity to the site have existing off street parking and much of the surrounding streets are controlled with double yellow lines. As such is it considered that any impact on parking in the area will be marginal.

4.0 Table of key planning issues

Issue	Conclusion
Principle of development – Increase in residential use	The site is currently mixed use, consisting of commercial (employment) and residential. The proposal will retain commercial use on the ground floor, while increasing the residential offering from one flat to 8 no. flats and one

Issue	Conclusion
	<p>detached dwelling on this site.</p> <p>Outline planning permission was approved in 2005 (ref: 05/1277/OUT) for the 'residential development (siting, design, means of access, landscaping and external appearance reserved for future consideration)' and the permission was extended in 2010 (ref: 10/1353/EXT), which confirmed the Council's acceptance of the principle of redeveloping the site for mixed use residential .</p> <p>In addition, the proposal meets the sequential approach to development in accordance with Policy H1 and H2 of the Local Plan, in that it is <i>meeting housing needs on previously developed [brownfield] land and at the highest density that can be achieved without detriment</i>. It is also in line with Policy CP1 of the Core Strategy as it will make a contribution toward the plans for an additional 12000 houses within Exeter during the Plan period from 2006 to 2026.</p>
Scale, design, impact on character and appearance	<p>Scale: The Council's Urban Design Officer has stated that <i>'two storey housing occupies the other side of Main Road and this is both set back and is at a higher level. The increase in scale on the application site is considered therefore to be acceptable and is supported.'</i> The applicant has demonstrated that the use of intermittent glazed gaps in the roof plane also helps to reduce the appearance of bulk, which officers welcomed.</p> <p>Design: It is considered that the modern redevelopment of the site, which includes the removal of the canopy that served the former petrol station, the development varying from 1 to 3-stories high, with a pitched roof to the front elevation, the gable ends and appropriate use of different materials, brick and render, suitably reflects and compliments the existing character and appearance of the local area.</p> <p>The relationship to Main Road; a 2m minimum distance adjacent to the proposed layby has been provided with a set back to the proposal which is an improvement to the public realm;</p>
Impact on amenity	<p>The proposal provides 184sqm of communal amenity space for the 8 no. flats which is welcomed, considering it exceeds the requirement of the Residential Design Guide SPD, to provide 20sqm of communal open space per flat (160sqm). It is also therefore complies with Policy DG4 criterion (b) to <i>'ensure a quality of amenity which allows residents to feel at ease within their homes and gardens'</i>.</p>

Issue	Conclusion
	<p>The Gross Internal Areas (GIA) of the proposed residential units are in accordance with the Nationally Prescribed Space Standards and are therefore considered acceptable.</p> <p>Overlooking: Residential amenity is considered acceptable, as back-to-back distances are in accordance with the Residential Design Guide's SPD and exceed the 22m requirement for all but 2 of the 8 properties, which are 17m away at an oblique angle to the development.</p> <p>This is considered acceptable because in accordance with the SPD, the angle of the properties backing onto each other are 45° and/or the windows are not directly opposite each other (SPD paras. 7.17 and 7.19).</p> <p>Furthermore, the SPD allows for the separation distances to be reduced to 15m '<i>where the angle of properties backing onto each is 45 degrees or more</i>'.</p> <p>The proposal therefore complies with the Council's SPD with regard to residential amenity and therefore, it is considered that an acceptable level of privacy can be suitably achieved and the development is considered acceptable in this regard.</p> <p>Overshadowing: The north-west position of the site, in relation to the neighbouring properties on Langaton Lane, means that as the sun moves from east to west during the course of the day, those properties and their rear garden areas, which measure 100sqm or more, will not experience unreasonable level of overshadowing by the proposal, which is considered acceptable.</p> <p>Overbearing: As stated above, the existing garden areas for the properties on Langaton Lane are generous, measuring 100sqm or more. Furthermore, the shared boundary is 6.7-8m away from the rear elevation of the proposal and the gardens of the existing properties, run at an angle away from the rear elevation of the proposal. As such, long views down the rear gardens are skewed away from the proposal. As such, it is considered that an acceptable level of residential amenity for neighbouring occupiers, in terms of overbearing, will be achieved.</p> <p>Hours of operation for the commercial premises have been provided as follows:</p> <p style="padding-left: 40px;">Garage - Mon to Fri 8:30 - 18:00 Kiosk - Mon to Sat 8:30 - 18:00 Commercial - Mon to Sat 8:30 - 22:00, Sun 8:30 - 16:00</p>

Issue	Conclusion
	<p>Hours of operation will be a condition to the application and is therefore considered acceptable.</p> <p>A condition for details of external lighting will also be added to the proposal to mitigate harm to residential amenity.</p>
Impact on landscape or heritage assets	<p>There is an existing mature Ash tree on the site where the detached dwelling is proposed. An Arboricultural Assessment was submitted with the application. The assessment of the tree revealed that <i>the crown density is greatly reduced, consistent with the symptoms of Ash Dieback Disease (ADB)</i>. The Council's Arboriculturist made a site visit (dated 23.06.2023) and confirmed the diagnosis.</p> <p>The applicant has proposed the replacement of the existing tree with 3 no. Fastigate Oaks to mitigate the loss of the diseased tree, due to <i>'its very limited safe useful life expectancy'</i>. The Arboriculturist considers the proposed replacements suitable. This will be a condition to any approval.</p>
Social and Economic benefits	<p>The proposal provides an uplift in the existing dated buildings on site and creates 1 no. 104sqm unit and 2 nos. 72sqm units; use class E (<i>Commercial, Business and Service</i> - including retail, offices, creche and medical health services) and use class F2 (<i>Local Community Use</i> - including meeting spaces and shops). The proposed garage will measure 105sqm and 2 no. separate garage bays measuring 36sqm and 38sqm as well as 5 no. car parking spaces to facilitate the use. Hence providing a revitalisation of local service provision the designated Local Centre of Pinhoe which, is supported.</p>
Transport, Access and Parking	<p>The development includes the provision of a layby for loading and servicing, 10 no. secure, sheltered cycle parking bays for the 8 no. flats and 4 no. Sheffield stands for up to 8 no. cycle parking for visitors to the flats and commercial units. There will be 5 no. off street parking spaces for the commercial garage and 2 no. off street parking spaces for the proposed detached dwelling.</p> <p>The flats are proposed as car free which Highways Officers consider acceptable for the following reasons: The majority of homes in the area have access to off street parking and the surrounding roads in close proximity have double yellow lines.</p> <p>The site has easy access to bus routes direct to Exeter and Pinhoe railway station with connections to</p>

Issue	Conclusion
	<p>Exeter/London within 8 minutes walk.</p> <p>Highways Officers are of the opinion that the uplift in trip rates by the development are marginal and considering the sites sustainable location, are satisfied that the development would not lead to an unacceptable level of parking or congestion in the area.</p> <p>A travel plan will be conditioned to the application decision.</p>

5.0 Description of site

The proposal will replace and extend the existing one-and-a-half-storey, mixed used development, which currently consists of light industry – Car wash, MOT, a barbers and a restaurant at street level, with one, 2-bedroom residential unit at first floor level. It currently has an open frontage extending 110m directly onto Main Road. It is a triangular site backing onto private terraced gardens which are at an oblique angle to the rear and at a lower topography to the site, while semi-detached properties opposite, are at a higher ground level. The site is designated *Local Centre* within the Local Plan. Outline planning permission was granted in 2006 for residential development with all matters reserved. The permission was renewed in 2010, however the development was never implemented.

Surrounding area:

The area is characterised by two-storey terraced (at rear) and semi-detached (opposite) dwellings, with a mix of red-brick and render finishes with bay frontages and generous front gardens, many which have been converted to off street parking bays. The site has easy access to bus routes direct to Exeter and Pinhoe railway station, with connections to Exeter/London within 8 minutes walk. Main Road is a significant arterial road, B3181 into Exeter city centre.

6.0 Description of development

Replacement of existing garage, forecourt and retail units with a mixed-use development including residential and commercial (Revised plans).

The proposal includes ground floor commercial use and will provide residential development in close proximity to local amenities such as shops and schools. The proposal is for a two-and-a-half-storey development consisting of 4 no. 2-bedroom flats and 4 no. 1-bedroom flats, 447.82sqm of commercial development and associated landscaping and parking for the commercial use.

7.0 Supporting information provided by applicant

Design and Access Statement, October 2023

Preliminary Ecological Appraisal, March 2022

Ecological Impact Assessment (Bats and Birds), September 2023

Phase 1: Preliminary Geotechnical and Contamination Assessment Report

Drainage Statement, August 2022
 Air Quality Impact Assessment, September 2023
 Arboriculture Report 23052023, June 2023

8.0 Relevant planning history

Reference	Proposal	Decision	Decision Date
22/1223/FUL	Replacement of existing garage, forecourt and retail units with a mixed-use development including residential and commercial (Revised plans).	PCO	
16/0022/FUL	Change of use to bar and restaurant and new canopy to front entrance	PER	15.07.2016
14/4852/FUL	Change of use from tyre fitting garage to a take away, hot food (A5)	PER	05.05.2015
12/1417/RES	Redevelopment to provide two and a half/three storey building comprising 7 terraced houses, four flats and one duplex, parking and associated works (approval sought for reserved matters on Ref. No. 10/1353/38, granted 06 October 2010, for access, appearan	REF	18.12.2012
11/1963/RES	Redevelopment to provide three storey building comprising 7 terraced houses, four flats and one duplex, parking and associated works (approval sought for reserved matters on Ref. No. 10/1353/38, granted 06 October 2010, for	REF	13.03.2012

	access, appearance, landscaping		
10/1353/EXT	Residential development (siting, design, means of access, landscaping and external appearance reserved for future consideration) (Extension of Time for extant Planning Permission Ref No. 05/1277/01 granted 19 May 2006)	PER	06.10.2010
05/1277/OUT	Residential development (siting, design, means of access, landscaping and external appearance reserved for future consideration)	PER	19.05.2006
03/1010/FUL	Partial change of use from garage services to car sales	PER	24.07.2003

9.0 List of constraints

The site is in a designated Local Centre

10.0 Consultations

All consultee responses can be viewed in full on the Council website.

Order for Consultees

National – N/A

External Agencies –

Devon and Cornwall to Police, Designing Out Crime

- The path running to the rear of the garages is gated in order to prevent unauthorised access;
- The green space should be afforded a suitable boundary treatment as per the front of the dwelling, to clearly define it and prevent casual intrusion;
- The external communal doors for apartment blocks must not have trades button
- Access for mail delivery or utility readings;
- Installation of CCTV is recommended to the commercial space and garage;
- Commercial units should be fitted with a monitored intruder alarm or at least the required infrastructure to enable easy installation of a system by the occupants

Exeter Cycling Campaign

- Raised objection due to inadequate provision of cycling facilities as follows:
- Given there are 4 two bed flats and 4 one bed flats this should mean 12 secure and covered spaces are provided
- In terms of the public bike storage, there are no racks in front of the other commercial units (A and C) and there is no provision at the food kiosk which would be ideally served by customers cycling.
- Provision should be made for both staff and customers.
- The spacing of racks must meet LTN 1/20 standards including enabling non-standard cycles to use them (e.g. trikes, recumbent, child trailers, cargo bikes) to ensure full accessibility and no discrimination.
- Where more than 20 people are to be employed, showers, lockers, and space to dry clothes to be provided within the units, as per LTN 1/20.
- Site analysis (i.e. inclusion in site plans or transport plans) relating to walking and cycling infrastructure, should indicate where new routes and links need to be made to improve the network
- The application has made no reference to local walking or cycling links or distances for walking or cycling to any local amenities meaning no analysis is possible.

Internal Agencies

Urban Design

- The Site Access / Dropped Kerb should not interrupt / deny the continuation of a level footpath across the site frontage.
- The footpath between any layby and the front of the built form would need to be 2m minimum
- Soft landscaping is not appropriate immediately next to the building frontages so, this area could be subsumed into a wider pathway.
- Two storey housing occupies the other side of Main Road and this is both set back and is at a higher level. The increase in scale on the application site is considered therefore to be acceptable and is supported
- The access to the Paladin-style refuse/recycling bins would need to be made wider.
- Take main roof across full front elevations (omit glazed gaps in roof plane crossing the ridgeline of the roof) to avoid disjointed appearance.
- There is a major tree existing at Langaton Lane and this forms a significant and important feature within the existing streetscape and represents a considerable ecological asset. There needs to be an assessment of its condition and justification made for its removal but its Root Protection Area is certainly in conflict with the location of the proposed dwelling. The achievement of a Biodiversity Net Gain as a result of the development will be made much harder if this tree is removed.
- The parking that is shown serving the individual dwelling, off Langaton Lane is within the Root Protection Area of some of the secondary trees that exist on the site (as well as the major tree) – a constructional strategy for providing

these spaces would need to be provided showing how the roots would be safeguarded.

- The important corner of this building (which presents to the junction of Main Road and Langaton Lane) is relatively weak in contributing to the three-dimensional form and general appearance within the streetscene. Consider ways to visually strengthen – including possibly extending the brick texture upwards to embrace the full façade at this corner?
- Reduction in the amount of space available for parked / turning vehicles should be carefully considered and layout revised
- The small public space next to the Kiosk will need to be provided with artificial lighting to make it safe to use into the evenings
- Can the residential amenity of the dwelling (66 Main Road) immediately behind and next to this small space be adequately protected?
- Where will refuse from this establishment be conveniently stored?
- No adequate details of the landscape proposals have been submitted.

Environmental Health

- Following submission of additional information and revised plans, Officers raised no objection subject to conditions relating to submission of a Contamination Environmental Management Plan (CEMP), hours of operation, lighting and limitation to noise emissions.

Ecology

- Raised no objections subject to conditions

Highways

- There is a restricted parking in the area to prevent parking along main road during the peak hours which would prevent there being a highway safety concern when the traffic flows are at their peak.
- It would seem that lots of the local residents do have off road parking already and on road parking was very low from previous visits in the immediate area.
- There isn't a residents parking scheme in the area that would allow for more control over the parking, but this is proposed to be car free, there are links to bus stops and Pinhoe railway station within very close proximity which would enable travel into Exeter and potentially discourage car ownership.
- It is unlikely that there would be a severe impact on the highway from the development of the 8 flats which are proposed to be car free.

Trees

- The Council's arboriculturist comments are as follows:
- T1 - Ash makes a significant contribution to the visual amenity of the area and therefore, robust justification is required if removal is to be approved.
- The supporting arboricultural report ref: TH/B534/0523 highlights the fact that *"The tree is a significant landscape feature but not realistically worthy of*

consideration for the protection offered by a Tree Preservation Order due to its very limited safe useful life expectancy.”

- The above conclusion is the outcome of the Project Arboriculturist’s assessment and observations that the crown density is greatly reduced, consistent with the symptoms of Ash Dieback Disease (ADB) and the anticipated decline as a result.
- A site visit by the Council’s Arboriculturist (dated 23.06.2023) and desktop search (Google Street View) to make an assessment, confirmed that T1 is showing signs consistent with ADB. Given this prognosis, the safe useful life expectancy of T1 is most certainly limited.
- It is noted that the above report includes recommendations for the planting of three Fastigate Oaks, in mitigation for the loss of T1 – Ash. From an Arboricultural perspective, the proposed replacements are considered to provide a suitable replacement.
- Although the removal of T1 may be justified, its loss will be noticeable and it is therefore imperative, that it is mitigated for by a significantly robust planting scheme that is to be approved by the council’s Landscape officer.

11.0 Representations

13 notification letters were sent to neighbours, a site notice was put up and the proposal was advertised in the Weekly List and local press.

7 objections received raising the following concerns:-

- Increased parking in surrounding roads
- Highway safety, new access for single dwelling
- Congestion of the highway for construction and operational servicing
- Design is out of character with the area
- Height (3-storeys)/ Overbearing
- Impact on outlook
- Overlooking/Privacy
- Communal back alley blocked;
- Overdevelopment

12.0 Relevant policies

Development Plan

National Planning Policy Framework (NPPF) (2021) – in particular sections:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
9. Promoting sustainable transport

11. Making effective use of land
12. Achieving well-designed places

Planning Practice Guidance (PPG):

Air Quality

Appropriate assessment

Community Infrastructure Levy

Design: process and tools

Effective use of land

Healthy and safe communities

Housing and economic needs assessment

Housing needs of different groups

Housing: optional technical standards

Housing supply and delivery

Land affected by contamination

Noise

Renewable and low carbon energy

Town centres and retail

Travel Plans, Transport Assessment and Statements

Use of planning conditions

Water supply, wastewater and water quality

National Design Guide (MHCLG, 2021)

National Model Design Code (MHCLG, 2021)

Building for a Healthy Life” (Homes England’s updated Building for Life 12)

Cycle Infrastructure Design Local Transport Note 1/20 (DfT, July 2020)

Protected species and development: advice for local planning authorities (Natural England and DEFRA, 7 January 2021)

Protected sites and areas: how to review planning applications (DEFRA and Natural England, 5 August 2016)

Biodiversity duty: public authority duty to have regard to conserving biodiversity (Natural England and DEFRA, 13 October 2014)

Development Plan

Exeter Local Development Framework Core Strategy (Adopted 21 February 2012)

CP1 – Spatial strategy

CP3 – Previously developed land

CP4 – Density

CP5 – Mixed Housing

CP9 – Transport
CP10 – Community Facilities
CP11 – Pollution
CP15 – Sustainable Construction
CP16 – Green Infrastructure, Landscape and Biodiversity
CP17 – Design and Local Distinctiveness

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and location of development
AP2 – Sequential approach
E3 – Retention of employment land or premises
E5 – Employment Use in Residential Areas
H1 – Search sequence
H2 – Location priorities
T1 – Hierarchy of modes
T2 – Accessibility criteria
T3 – Encouraging use of sustainable modes
T10 – Car parking standards
LS2 – Ramsar/Special Protection Area
EN2 – Contaminated land
EN3 – Air and water quality
EN5 – Noise
DG1 – Objectives of urban design
DG2 – Energy Conservation

Devon Waste Plan 2011 – 2031 (Adopted 11 December 2014) (Devon County Council)

W4 – Waste Prevention
W21 – Making Provision for Waste Management

Other material considerations

The Exeter Plan – Outline Draft Plan (September 2022)

S1 – Spatial Strategy
S2 – Liveable Exeter delivery principles
CE1 – Net Zero Exeter
H1 – Housing Requirement
EJ2 – Retention of Employment Land
STC1 – Sustainable Movement
STC2 – Active and Sustainable Travel in New Developments

STC3 – Active Travel Proposals
STC4 – Public Transport Proposals
NE3 – Biodiversity
NE4 – Green Infrastructure
D1 – Design Principles
H1 – Health and Wellbeing
IC2 – Community Facilities

Sustainable Transport SPD 2013
Trees and Development SPD 2009
Planning Obligations SPD 2014
Residential Design Guide SPD 2010

Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)
First Homes Planning Policy Statement (June 2021)
South-east Devon European Site Mitigation Strategy (June 2014)

Exeter Housing and Economic Land Availability Assessment (HELAA) First Edition (Sept 2022)
Exeter Brownfield Sites Studies (June 2020)
Urban Capacity Study Part 1 (July 2020)
Urban Capacity Study Phase 2 (July 2021)
Exeter Employment Study (August 2022)

13.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

The consideration of the application in accordance with Council procedures will ensure that views of all those interested are considered. All comments from interested parties have been considered and reported within this report in summary with full text available via the Council website.

It is acknowledged that there are certain properties where they may be some impact (this can be mitigated by conditions – if relevant). However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the city and wider area and is proportionate given the overall benefits of the scheme in terms of provision of eight additional residential units, including one dwelling house and 8 flats, contributing to the Councils overall housing provision in addition to essential facilities and local jobs, under the use class E and F2.

Any interference with property rights is in the public interest and in accordance with the Town and Country planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

14.0 Public sector equalities duty

As set out in the Equality Act 2010, all public bodies, in discharging their functions must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have regard to and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

15.0 Financial issues

The requirements to set out the financial benefits arising from a planning application is set out in s155 of the Housing and Planning Act 2016. This requires that local planning authorities include financial benefits in each report which is:-

- a) made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission; and

- b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2) of the Town and Country Planning Act 1990.

The information or financial benefits must include a list of local financial considerations or benefits of a development which officers consider are likely to be obtained by the authority if the development is carried out including their value if known and should include whether the officer considers these to be material or not material.

Material considerations

The applicant has suggested that there is likely to be three additional jobs created as a result of the development

Non material considerations

CIL contributions

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable.

The rate at which CIL is charged for this development is calculated per square metre plus new index linking, as follows:

CIL Rates	Residential	Out of City Centre retail	Flatted residential
Rate for permission granted in 2024	£136.07	£212.61	£0.00
	x 193sqm = £26,261.51	X170sqm = £36,143.7	£0.00

Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development. Full details of current charges are on the Council's website.

With reference to The Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature of the development it has been concluded that an AA is required in relation to potential impact on the Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC). This AA has been carried out and concludes that the development could have an impact in combination with other residential developments primarily associated with recreational activity of future occupants. However, 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 CIL collected in respect of the development being allocated to funding the mitigation strategy.

16.0 Planning assessment

Principle of development

Outline planning permission was approved in 2005 (ref: 05/1277/OUT) for the 'residential development (siting, design, means of access, landscaping and external appearance reserved for future consideration)' and the permission was extended in 2010 (ref: 10/1353/EXT), which confirmed the Council's acceptance of the principle of development.

The site is currently mixed use, consisting of commercial (employment) and residential. The proposal will retain commercial use on the ground floor with x3-units providing 248sqm, Use Class E2 and F and a commercial garage providing 179sqm. There is a proposed free-standing kiosk (8.5sqm) - *small, independent food outlet, selling local produce* at the north end of the site. The residential offering will be increased from one 2-bedroom flat to 4 no. 1-bedroom flats, 4 no. 2-bedroom flats and 1 no. detached dwelling on this site.

Policy and H2 of the Local Plan, in that it is *meeting housing needs on previously developed [brownfield] land and at the highest density that can be achieved without detriment*. It is also in line with Policy CP1 of the Core Strategy which plans for an additional 12000 houses within Exeter during the Plan period from 2006 to 2026. The latest calculation for the Council's housing supply has revealed 4 year and 4 months' supply of deliverable housing.

This development would contribute to the Council's housing supply by providing four, 1-bedroom flats and four 2-bedroom flats. No significant adverse impacts are identified in this scheme that would outweigh the benefit of these additional units.

Design (Previous applications)

Two reserved matters applications were submitted following the 2005 (ref: 05/1277/OUT) outline permission and extension (ref: 10/1353/EXT), as follows:

11/1963/RES - Redevelopment to provide three storey building comprising 7 terraced houses, four flats and one duplex, parking and associated works (approval sought for reserved matters on Ref. No. 10/1353/38, granted 06 October 2010, for access, appearance, landscaping, REFUSED 3rd March 2012

Reasons:

- overdevelopment of the site, as a result of its design, position, height, scale and massing;

- loss of privacy and amenity as a result of overlooking, overbearing impact, overshadowing and noise;
- out of character, detract from local visual amenity;
- substandard outdoor amenity space, room sizes, refuse and cycle storage
- inadequately responds to Code for Sustainable Homes Level 3

12/1417/RES - Redevelopment to provide two and a half/three storey building comprising 7 terraced houses, four flats and one duplex, parking and associated works (approval sought for reserved matters on Ref. No. 10/1353/38, granted 06 October 2010, for access, appearance; REFUSED 18th December 2012

Reason:

- overdevelopment of the site, as a result of its design, position, height, scale and massing;

The significant difference with the first reserved matters application (*11/1963/RES*) and the application subject to this report, is that the scheme proposed 7 houses, 4 flats and 1 duplex, which would create 12 residential units, over 3-storeys, with associated car parking and a proposed a roof top terrace for outdoor amenity space. In this case the amount of development at the site has been significantly reduced.

The second reserved matters application (*ref: 12/1417/RES*) referenced above, reduced the scale of the development from 3 to 2-storeys. However, there were still 12 units proposed on site, with a roof top terrace and off street parking to the rear. The materials proposed as part of the design were *part rendered and part timber boarded finishes* which did not reflect the local vernacular. Hence the application was refused, although the reasons relating to amenity were not upheld from the previous refusal.

The 2005 outline permission also allowed for the removal of the commercial element of the development, which will be retained and improved upon as part of this current scheme, which is supported.

Design (Current proposal)

Scale: The proposal is for buildings which will be part single-storey (garage), increasing to three-storeys in height (flatted residential). The existing proposal is single storey (garage) and one-and-a-half storey, which accommodates residential above the existing commercial.

There is a natural incline to the site, where properties opposite, on Main Road, are at a higher level and set further away. In addition, the highest element of the proposal is at the centre of the site and the height therefore reduces to the single-storey garages and two-and-a-half storey dwellinghouse on either end of the development. The applicant has demonstrated that the use of intermittent glazed gaps in the roof plane, in addition to the pitched roof design to the front façade, also helps to reduce the appearance of bulk, which officers welcomed. Notwithstanding the two-storey residential

dwellinghouses on Langaton Lane, those properties are set further away and although at a lower level to the site are at an angle to the development, further befitting from the removal of the canopy that served the former petrol station, previously giving the illusion of a two-storey building. As such, Officers consider the overall scale of the proposal to be in keeping with its surroundings and complies with National and Local Policies including Policy and is therefore acceptable.

Aesthetics: As mentioned earlier in this report, the area is characterised by two-storey terraced (at rear) and semi-detached (opposite) dwellings, with a mix of red-brick and render finishes with a front gable detail above bay frontages. It is considered that the modern redevelopment of the site, which includes the removal of the canopy that served the former petrol station, the development varying from 1 to 3-stories high, with a pitched roof to the front elevation, the gable ends and appropriate use of different materials - brick and render, suitably reflects and compliments the existing character and appearance of the local area.

The relationship to Main Road; the 2m width pavement adjacent to the proposed layby has been provided. In addition, a proposed tree and benches adjacent to the kiosk on the north-east end of the site and three additional Oak trees to replace the existing mature Ash (affected by Ash dieback disease), contribute to softening the edge of the site while increasing biodiversity and greening the locality. As such Officers consider the application to be in accordance with Local and National Policy and is therefore acceptable.

For the reasons set out above, the development is in line with National and Local Policy including DG1 and DG4 of the Local Plan and Policy CP4 of the adopted Core Strategy as well as the Residential Design Guide SPG.

Residential Amenity

The proposal provides 184sqm of communal amenity space for the 8 no. flats which is welcomed, considering it exceeds the requirement of the Residential Design Guide SPD, to provide 20sqm of communal open space per flat (160sqm). It is also therefore complies with Policy DG4 criterion (b) to *ensure a quality of amenity which allows residents to feel at ease within their homes and gardens*.

The Gross Internal Areas (GIA) of the proposed residential units are in accordance with the Nationally Prescribed Space Standards and are therefore considered acceptable.

Overlooking:

Residential amenity is considered acceptable, notwithstanding the two-storey residential dwellinghouses on Langaton Lane, which will, nonetheless, benefit from an improved outlook due to the removal of the existing canopy of the former petrol station. Back-to-back distances, with properties on Langaton Lane, are in accordance with the Residential Design Guide's SPD and exceed the 22m requirement for all but 2 of the 8 properties, which are 17m away, at an oblique angle to the development. This is considered acceptable because in accordance with the SPD, the angle of the properties

backing onto each other are 45° and/or the windows are not directly opposite each other (SPD paras. 7.17 and 7.19).

Furthermore, the SPD allows for the separation distances to be reduced to 15m '*where the angle of properties backing onto each is 45 degrees or more*'.

The proposal therefore complies with the Council's SPD with regard to residential amenity and therefore, it is considered that an acceptable level of privacy can be suitably achieved and the development is considered acceptable in this regard.

Overshadowing: The north-west position of the site, in relation to the neighbouring properties on Langaton Lane, means that as the sun moves from east to west during the course of the day, those properties and their rear garden areas, which measure 100sqm or more, will not experience unreasonable level of overshadowing by the proposal, which is considered acceptable.

Overbearing: As stated above, the existing garden areas for the properties on Langaton Lane are generous, measuring 100sqm or more. Furthermore, the shared boundary is 6.7-8m away from the rear elevation of the proposal and the gardens of the existing properties, run at an angle away from the rear elevation of the proposal. As such, long views down the rear gardens are skewed away from the proposal. As such, it is considered that an acceptable level of residential amenity for neighbouring occupiers, in terms of overbearing, will be achieved.

Hours of operation for the commercial premises have been provided as follows:

Garage: 8:30 - 18:00 Mondays to Fridays;

Kiosk: 8:30 – 18:00 Mondays to Saturdays;

Commercial: 8:30 - 22:00 Mondays to Saturdays, 8:30 - 16:00 on Sundays
and no time on public or Bank Holidays

Environmental Health Officers (EHOs) have accepted these operating hours and recommended that an appropriately worded condition to be added to any grant of permission in order to mitigate the possible impact to 'sensitive receptors' (residential), therefore, the proposal is considered acceptable in this respect.

In accordance with EHO recommendation, a condition for details of external lighting will also be added to the proposal to mitigate harm to residential amenity

Landscape

There is an existing mature Ash tree on the site where the detached dwelling is proposed. An Arboricultural Assessment was submitted with the application. The assessment of the tree revealed that *the crown density is greatly reduced, consistent with the symptoms of Ash Dieback Disease (ADB)*. The Council's Arboriculturist made a site visit (dated 23.06.2023) and confirmed the diagnosis.

The applicant has proposed the replacement of the existing tree with 3 no. Fastigate Oaks to mitigate the loss of the diseased tree, due to *its very limited safe useful life*

expectancy'. The Arboriculturist considers the proposed replacements suitable. This will be a condition to any approval.

Social and Economic benefits

The site is a Local Centre and therefore the Council will seek development which contribute to the active vibrant centre and provide local facilities. The proposal creates 1 no. 104sqm unit and 2 nos. 72sqm units; use class E (Commercial, Business and Service - including retail, offices, creche and medical health services) and use class F2 (Local Community Use - including meeting spaces and shops). The proposed garage will measure 105sqm and 2 no. separate garage bays measuring 36sqm and 38sqm as well as 5 no. car parking spaces to facilitate the use. The anticipated employment on the site will be an uplift of employees from 8 existing to 12 proposed. Hence, the development will provide a revitalisation of local service provision the designated Local Centre of Pinhoe which, is supported.

Transport, Access and Parking

The development includes the provision of a layby for loading and servicing, which ensure a minimum impact on the public highway especially when HGVs including refuse vehicles are servicing the site.

In terms of sustainable transport, the residential element of the development is proposed as car free. The Sustainable Transport SPD requires 1 space per dwelling (1-2 bedrooms) and 2 spaces for 3+bedrooms, while the development will provide 10 no. secure, sheltered cycle parking bays for the 8 no. flats and 4 no. Sheffield stands for up to 8 no. cycle parking bays for visitors to the flats and commercial units.

Exeter Cycling Campaign has objected on the grounds that the proposal does not meet National Guidance TN1/20 which is a planning material consideration. The report suggests a minimum of 1 cycle parking space per flat which would be 12 spaces in this as part of this proposed scheme. However, the development falls short of this requirement by 2 spaces. Notwithstanding this, the development complies with the Local Plan Policy T3 and the supporting text which states that 1 covered space is required per flat. Policy T3 also requires facilities for showering, an underprovision raised as a concern by Exeter Cycling campaign. The Council's Local Plan Policy T3 requires that *where more than 20 people are employed facilities for showering and changing are provided*. However, the applicant has advised that a maximum of 3 full-time equivalent employees are anticipated (3 per each commercial unit and 3 for the garage light industrial unit) and therefore although no shower/changing facilities have been provided and considering this site has good access to alternative means of sustainable transport and provides additional Sheffield stands on the forecourt for visitors, the provision of cycle parking and facilities is considered acceptable.

As such Highway Officers raised no objection, as the development is in accordance with Local Plan Policy AP1 and T1, T2 and T3 and the Sustainable Transport SPD which is

therefore considered acceptable. Furthermore, a condition will be applied to any grant of permission to ensure the cycle parking is implemented prior to occupation.

There will be 5 no. off street parking spaces for the commercial garage and 2 no. off street parking spaces for the proposed detached dwelling. The existing commercial operation has unmarked parking on site, however the area demarked for commercial parking of vehicles on plan, is not dissimilar in size and the nature of a vehicle repair garage, justifies a degree of car parking to be provided on site. As such the Highways Officers raised no objections as this in line with National and Local Policy AP1, E5 and T1 and the Sustainable Transport SPD and Officers therefore consider this to be acceptable.

Residents and Members have raised concern regarding excessive congestion and an increase in on-street parking. The flats are proposed as car free which Highways Officers consider acceptable for the following reasons: Despite there being no residents' parking restriction in place, the majority of homes in the area have access to off street parking and the surrounding roads in close proximity are otherwise covered by double yellow lines. The site has easy access to bus routes direct to Exeter and Pinhoe railway station with connections to Exeter/London within 8 minutes walk.

Highway Officers have stated that the average dwelling generates approximately 6 vehicle movements per day according to the TRICS database (Trip Rate Information Computer System) which is an industry accepted way of establishing trip rates. This development has 9 dwellings associated with it (8 flats and one detached house) which could potentially generate approximately 5 movements in the AM and PM peaks. This number is considered unlikely to place the existing highway over capacity. The existing legal use would already generate a level of movements and while these might not have the same peak times, the difference between total movements would not be significant and therefore there is unlikely to be a significant impact on the highway. As such, Officers support the car free scheme, as it accords with the Council's 2019 declaration of a climate emergency and the aim to be carbon neutral by 2030.

As such, Highways Officers therefore raised no objection on highway grounds for the proposed car free element of the scheme or the quantum of proposed cycle parking provision, which is in accordance with Policy AP1, E5, and T1, T2, T3 of the Local Plan. A travel pack/plan will be conditioned to the application decision.

17.0 Conclusion

It is concluded that concerns relating to residential amenity are mitigated by the natural angle and positioning of the site, and distance between properties in relation to neighbouring properties on Langaton Lane. Furthermore, Highway Officers have confirmed that the sustainable location and easy access to public transport, will mitigate concerns relating to congestion and parking, existing double yellow lines are present in the surrounding streets which will discourage rogue parking and the marginal uplift in trip rates, as a result of the new scheme, is not considered significant when compared

to the existing use/operation. As such, the development is not expected to have a significant impact on highways in terms of congestion and parking. Conditions attached to the planning application will satisfy concerns relating to cycle parking provision, Travel Plan and works required to the public highway to deliver the layby and other public realm improvements.

It is therefore recommended that the application be APPROVED subject to conditions.

18.0 Recommendation

Delegate to the Service Lead (City Development) to grant permission, subject to the following conditions (and their reasons):

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 04/09/2023 2023 including drawings numbers as follows:

20.94_PL_001A, 20.94_PL_002A, 20.94_PL_003A, 20.94_PL_004, 20.94_PL_005, 20.94_PL_006A, 20.94_PL_007B, 20.94_PL_008, 20.94_PL_009, 20.94_PL_100A, 20.94_PL_101A, 20.94_PL_102A, 20.94_PL_103A, 20.94_PL_104A, 20.94_PL_105A, 20.94_PL_106A, 20.94_PL_200A, 20.94_PL_201A, 20.94_PL_202A, 20.94_PL_203, 20.94_PL_204A, 20.94_PL_205A, 20.94_PL_206A, 20.94_PL_207, 20.94_PL_301, 20.94_PL_302

as modified by other conditions of this consent.

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

3) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.

Reason: To ensure that the materials conform with the visual amenity requirements of the area.

4) (Part A) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until an Road Safety Audit Stage 1 (RSA S1) and detailed scheme for the offsite highway improvement works has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, any problems identified in the RSA S1 must be adequately rectified to a standard deemed acceptable by the Local Planning Authority.

(Part B) Prior to the first occupation of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity in accordance with saved policies T1 and T3 of the Exeter Local Plan First Review, the Sustainable Transport SPD and paragraphs 110 and 112 of the NPPF (2023)

5) Pre-commencement condition: Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall achieve a BREEAM excellent standard (minimum 70% score) as a minimum. Prior to commencement of development of such a building, the developer shall submit to the Local Planning Authority a BREEAM design (interim) stage assessment report, to be written by a licensed BREEAM assessor, which shall set out the BREEAM score expected to be achieved by the building and the equivalent BREEAM standard to which the score relates. Where this does not meet the BREEAM minimum standard required, the developer shall provide, prior to the commencement of development of the building, details of what changes will be made to the building to achieve the minimum standard for the approval of the Local Planning Authority to be given in writing. The building must be completed fully in accordance with any approval given. A BREEAM post completion report of the building is to be carried out by a licensed BREEAM assessor within three months of substantial completion of the building and shall set out the BREEAM score achieved by the building and the equivalent BREEAM standard to which such score relates.

Reason for pre commencement condition: To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development. The design stage assessment must be completed prior to commencement of development because the findings may influence the design for all stages of construction.

6) Pre-commencement condition: A Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site and adhered to during the construction period. This should include details of monitoring and mitigation measures to control the environmental impact of the development during the construction and demolition phases, including site traffic and traffic routing, the effects of piling and emissions of

noise and dust. The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.

Reason for pre-commencement condition: In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

7) Pre-commencement condition: No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with the Tree Protection Plan and Arboricultural Method Statement and plan submitted in support of the application hereby approved. These plans shall be adhered to in full and subject to the pre-arranged tree protection monitoring and site supervision, detailed in the Tree Protection Statement (ref: TH/A862/0321), by a suitably qualified tree specialist. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

Reason for pre-commencement condition - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

8) In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.

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

9) 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.

10) Prior to occupation of any dwelling hereby approved or any part of the development being brought into its intended use, the ecological enhancements submitted plan as part of the Ecological Impact Assessment (GE Consulting, September 2023) and hereby approved, shall be fully installed as per Figure 2 Ecological Enhancement Plan and sections 6.1, 6.2 and 6.3. Thereafter the development shall be carried out and managed strictly in accordance with the approved measures and provisions of the ecological enhancement plan.

Reason: In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

11) No individual dwelling hereby approved shall be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.

Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.

12) If during development contamination not previously identified is found to be present at the site then no further development, unless otherwise agreed in writing with the Local Planning Authority, shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amended investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan, and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy, and the effectiveness of the remediation, shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of the amenity of the occupants of the buildings hereby approved.

13) The use hereby approved shall not be carried on other than between the hours of insert Mondays to Saturdays and shall not be carried on at all on Sundays and public or Bank Holidays.

Reason: So as not to detract from the amenities of the nearby residential property.

14) Prior to occupation of the development hereby permitted, a travel pack for each occupier shall be provided, informing all residents of walking and cycling routes and facilities, public transport routes and timetables, car and cycle sharing schemes, and the location of local and central shopping and leisure facilities. The plan must also provide a method to inform occupiers that they would not be entitled to a residents' parking permit from Devon County Council and a review and monitoring mechanism, the form and

content of which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that all occupants of the development are aware of the available sustainable travel options.

15) No external lighting shall be installed on the site or on the building hereby permitted unless details of the lighting have previously been submitted to and approved in writing by the Local Planning Authority (including location, type and specification). The details shall demonstrate how the lighting has been designed to minimise impacts on local amenity and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.

Reason: To ensure lighting is well designed to protect the amenities of the area and wildlife.

16) Total noise from all fixed building services plant and equipment shall not exceed a rating noise level of 42dB (07.00 to 23.00) and 31dB (23.00 to 07.00), measured in accordance with BS4142:2014 at 1m from any residential façade.

Reason: So as not to detract from the amenities of nearby occupiers.

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 Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. 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 fund 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).

2) 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.

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.

It is also drawn to your attention that 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.