

PLANNING

Date: Monday 1 September 2014
Time: 5.30 pm
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, Democratic Services Officer (Committees) on 01392 265107.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Membership -

Councillors Bialyk (Chair), Spackman (Deputy Chair), Choules, Denham, Edwards, Lyons, Mitchell, Mottram, Newby, Raybould, Sutton, Williams and Winterbottom

Agenda

Part I: Items suggested for discussion with the press and public present

1 Apologies

To receive apologies for absence from Committee members.

2 Minutes

To sign the minutes of the meetings held on 14 April, 12 May and 16 June 2014.

3 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should wish to do so, then the following resolution should be passed: -

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

Public Speaking

Public speaking on planning applications and tree preservation orders is permitted at this Committee. Only one speaker in support and one opposed to the application may speak and the request must be made by 5pm on the Thursday before the meeting (full details available on request from the Democratic Services (Committees) Officer).

5 Planning Application No. 13/5128/03 - Land south of Met office, Fitzroy Road, Exeter

To consider the report of the Assistant Director City Development. (Pages 5 - 16)

6 Application No. 14/1753/06 - 5 St. Johns Villas, Sivell Place, Exeter, EX2 5ES

To consider the report of the Assistant Director City Development. (Pages 17 - 18)

7 List of Decisions Made and Withdrawn Applications

To consider the report of the Assistant Director City Development. (Pages 19 - 40)

8 Appeals Report

To consider the report of the Assistant Director City Development. (Pages 41 - 44)

9 SITE INSPECTION PARTY

To advise that the next Site Inspection Party will be held on Tuesday 16 September 2014 at 9.30 a.m. The Councillors attending will be Bialyk, Newby and Lyons.

Date of Next Meeting

The next scheduled meeting of the Planning Committee will be held on **Monday 29 September 2014** at 5.30 pm in the Civic Centre.

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on (01392) 265107 for further information.

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Agenda Item 5

ITEM NO.

COMMITTEE DATE:

1 SEPTEMBER 2014

APPLICATION NO:

13/5128/03

VARIATION OF CONDITION

APPLICANT:

Growen Estates, Mr D Scoble and Mr R Scoble

PROPOSAL:

Removal of condition 29 requiring a vehicular connection to the northern boundary of the site prior to the occupation of any retail unit (Ref. No. 11/1619/01 granted 19-06-2012)

LOCATION:

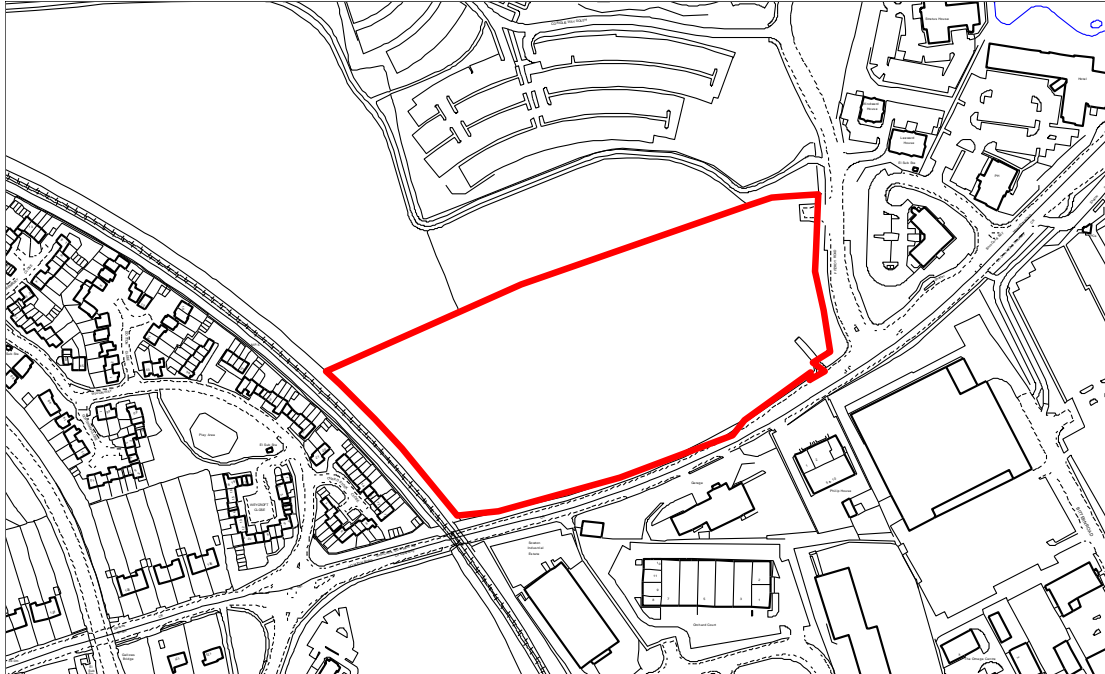
Land south of Met Office, Fitzroy Road, Exeter

REGISTRATION DATE:

24/12/2013

EXPIRY DATE:

25/03/2014



Scale 1:5000

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HISTORY OF SITE

- | | | | |
|--------------|---|--------|------------|
| 11/1619/01 - | Outline planning permission to erect a mixed use development comprising B1, B8, D1, D2, C1, A1, A3, A4 and A5 uses (means of access to be determined only) | PERMTD | 19/06/2012 |
| 12/0954/02 - | Hotel and restaurant (Approval of reserved matters following outline approval 11/1619/01 granted 19 June 2012) | PERMTD | 17/12/2012 |
| 14/1615/01 | Mixed use development to provide a District Centre comprising uses within some or all of Classes A1 (Retail) with associated Garden Centre, A2 (Financial and Professional Services), A3 (Restaurants and Cafes), A5 (Hot Food Takeaway), D1 (Non-residential institutions), D2 (Leisure), associated means of access, access road, car parking, infrastructure works, public realm and landscaping | UNDTMD | |

DESCRIPTION OF SITE/PROPOSAL

The site has a frontage onto Honiton Road and the west side of Fitzroy Road, which is the main entrance to the Met Office.

Outline planning permission was granted in 2012 for development of this land, with all matters reserved for future consideration apart from means of access. The approval was for a mixed use development comprising the following uses: Business (B1), Storage and Distribution (B8), Non-Residential Institutions (D1), Assembly and Leisure (D2), Hotel (C1), Shops (A1), Food and Drink (A3), Drinking Establishment (A4) and Hot Food Take away (A5) uses.

A condition limited the total Class A floorspace to 1600m², with no more than 900m² to be A1 or A3/A4/A5. Furthermore, no individual Class A unit can exceed 750m². This is to ensure that the permitted uses are to serve the immediate locality, to minimise vehicle journeys and to protect the vitality and viability of existing retail centres.

A hotel and pub/restaurant have subsequently been built in accordance with reserved matters approval on a part of the site nearest to Fitzroy Road. Access has been provided via an existing simple priority junction on Fitzroy Road.

At the time of the permission it was envisaged that the development might include a convenience store which would serve residents of new residential development to the north, and also staff working at nearby commercial development. It was promoted by the applicant as an alternative to the local centre proposed within Hill Barton and Monkerton Masterplan Study. The masterplan demonstrated one way of delivering the strategic allocation, it recognised there might be other acceptable dispositions of land uses. The outline permission included a condition (no.29) as follows:

"No Class A1 unit hereby approved shall be occupied until the vehicular connection to the northern boundary of the application site (the details of which are required by condition 1 above) has been constructed in accordance with the agreed details, to the adoption standards of the Highway Authority, and is available for public use.

Reason: *To ensure that the approved facilities may be conveniently accessible from the proposed development to the north."*

This application is for removal of this condition.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The applicant's agent has submitted a lengthy justification of the proposal. Its conclusions may be summarised as follows:

1. My clients consider that Condition 29, as currently worded, is wrong in planning terms since it could result in a substantial additional traffic loading onto the public highway network in the vicinity of my clients' site that it has not been demonstrated it can accommodate in either capacity or safety terms. Moreover, it is not considered to be reasonable, necessary, or relevant to the development that has been permitted in accordance with the extant planning permission (Ref: 11/1619/01) relating to my clients' site, and therefore does not meet the relevant tests set out in Circular 11/95.
2. My clients' main concern is that, having regard to Conditions 23 & 25 of planning permission ref: 12/0472/01 (the outline residential consent for up to 750 homes by Hill Barton Consortium), the effect of Condition 29 of the extant planning permission relating

to their land will prejudice the deliverability of their site, both the development the subject of the extant outline permission and/or any future proposals. As a consented scheme which has been planned within the Masterplan to deliver local facilities and jobs, it should be protected. Moreover, it would be fundamentally wrong in planning terms to require a connection which could, by default, become a future principal access point to a major development on adjoining land, the principle of which has been established on the basis of alternative means of access and the assessments in connection with which have not proven access to Fitzroy Road to be satisfactory, in terms of either capacity or safety. Indeed, the only evidence currently available indicates that such access would be unacceptable.

3. My clients have no difficulty with providing details of how a vehicular connection could be made, in accordance with the requirements of Condition 1 of the extant planning permission relating to their land, and to protect the opportunity to implement the approved details for the time being. However, at the present time, there is no justification for the requirement to construct the vehicular connection in accordance with the approved details. Indeed, it is reiterated, it would be wrong in planning terms to do so unless and until the potential implications in terms of capacity and safety have been adequately assessed and any necessary works of mitigation implemented.
4. Having regard to all of the foregoing reasons, my clients' consider that Condition 29 of planning permission ref: 11/1619/01 should be removed. Whilst application is made at this stage for removal of the condition, should you consider that there is an appropriate variation that can be made that will achieve a better balance between the concerns raised in this submission and your aspirations for the development of the area, we would be pleased to discuss the matter with you and to consider amending the application accordingly.

Following discussions between Officers and the applicant, the following further supporting information has been received:

The following is proposed revised wording for Condition 29 in response to the concerns expressed by the Highway Authority:

The vehicular connection to the northern boundary of the application site to be approved pursuant to Condition 1 above shall not be constructed in accordance with the approved details, to the adoption standards of the Highway Authority, and be available for public use, unless and until the completion and adoption for public use of a new full vehicular link & connection between both Hill Barton Road and Oberon Road on adjoining land to the north of the application site in accordance with Planning Permission Ref: 12/0472/01, or any planning permission by which it may be amended and/or superseded.

Following completion of the above the vehicular connection to the northern boundary shall be constructed in accordance with the approved details not later than 4 months following the date of approval by the local planning authority, or such other timescale as may be agreed by the local planning authority in writing.

Reason: To ensure the approved retail/leisure facilities may be conveniently accessible from the proposed development to the north, with appropriate trigger for timing of the link to protect the deliverability of the site and performance of the wider highway network in the vicinity of Fitzroy/Honiton Road.

As will be clear, my clients are not averse in principle to permitting an access through their site to connect with Fitzroy Road. Their concern is to ensure that the access is only delivered at such time that the level of traffic that it will be required to accommodate is

satisfactory and has been demonstrated as such. As a minimum this will require the eastern access to Oberon Road to serve the permitted development to the north to be in place first, in accordance with the principles of the Masterplan and the conditions of planning permission that has been granted.

The revised wording that we are now proposing confirms our clients' commitment, and indeed obligation, to provide the access at an appropriate stage, whilst reducing the adverse consequences in terms of occupier interest and funding to the proposed development on their site. Since their own proposals will deliver essential development to accommodate the aspirations of the Masterplan, the implications in terms of viability and deliverability are very material considerations.

REPRESENTATIONS

Objections: 1 from a representative of Hill Barton Consortium. Principal planning issues raised:

- The principle for attaching Condition 29 to the extant permission remains unchanged.
- The applicants' argument that the condition is not reasonable, necessary or relevant is entirely contradictory to the position previously taken – their agent having confirmed in writing that they could comply with its provisions.
- Concerns that the condition fails to meet the relevant tests of Circular 11/95 were not raised by the applicant at the time of determination.
- The argument that 'accessibility to the proposed retail facilities at Fitzroy Road/Honiton Road from the proposed residential developments to the north does not justify the connection' is flawed, for the following reasons.
- The facilities at Fitzroy Road/Honiton Road will be an alternative to, rather than in addition to, a local centre at Hill Barton. The connection secured by Condition 29 is therefore essential.
- The applicants previously recognised the benefits of the proposed facilities at Fitzroy Road/Honiton Road for the residential development to the north – in particular given that they would be in situ as the residential development took place.
- The removal of Condition 29 would undermine the principles established by the adopted Monkerton and Hill Barton Masterplan.
- The conditions attached to the Fitzroy Road/Honiton Road (Condition 29) and Hill Barton (Condition 23) permissions constitutes an entirely practical arrangement and will not unduly impact on the highway network.

Comments - 1 from a local resident. The area is becoming gradually more congested and suitable transport planning is required.

Support: 1 letter received from Consolidated Property Group, who are seeking to develop a "high quality retail and business service hub" on the site in partnership with the applicants. In order to attract high quality retailers such as Marks & Spencer and also create commercially viable development, the access road into the site must provide priority to customer traffic entering and leaving the development. The proposal cannot be the sole eastern access into the residential development of 733 dwellings (600 permitted to Hill Barton Consortium plus 133 currently under construction by David Wilson Homes).

CONSULTATIONS

County Head of Planning Transportation and Environment - the concept of a vehicular link connecting this site to the adjacent site to the north is clearly set out in the Exeter Core

Strategy (Plan 2 p101) and is central to the transport analysis supporting the strategic allocation of the Monkerton area. However, despite this the applicant argues that:

1. There is no justification for this link.
2. The highway link is not relevant for the site.
3. Capacity implications have not been fully assessed.

The Highway Authority's view is that the vehicular link is required to minimise the journey lengths for any linked trips between the adjacent residential sites and the wider network. The desire for minimising journey lengths is explicitly stated in paragraph 37 of the National Planning Policy Framework (NPPF).

The wider route choice provided by the development helps to better distribute traffic onto the local highway network. This reduces the impact on key junctions thus reducing the need for major transport infrastructure in accordance with paragraph 32 of the NPPF.

The connection also provides permeability between sites in accordance with the philosophies of Manual for Streets, which recommends "creating a network of streets that provide permeability and connectivity to main destinations and a choice of routes."

The removal of the vehicular connection would clearly be contrary to these points.

Concerns with the proposal in previous Highway Authority advice were that a delay in providing this link would increase journey lengths, increase emissions and reduce access for disabled users to the retail/ leisure facilities. These changes are considered contrary to Section 4 of the NPPF.

Whilst such concerns are still relevant, and indeed true, the applicants have argued that the NPPF also sets out that "developments that accord with the development plan should be approved". The proposed link to the adjacent site to the north accords with the development plan, and the variation simply seeks to delay its implementation until later in the plan period.

Given the conflicting arguments that can be made from the national policy, consideration has been given to the magnitude of the detrimental impacts of delaying its provision and if these are felt to be significant enough to warrant a refusal.

In considering this magnitude, thought is given as to how many vehicular trips are likely to take place from the adjoining residential proposals to the development at Fitzroy Road. The site will include mixed land uses, with C1, B1 and B8 uses accounting for over two thirds of the site. The remainder is made up of D1, D2, A3/A5 food retail, A1 non food and 750 metres square of Food Retail.

It is the food retail that is expected to generate the highest demand for short car trips. It is unlikely that the dominant land uses will generate vehicular trips from the adjacent site and with demand for other uses occurring primarily outside of peak periods, or as linked trips, these are of a more limited concern

The size of the A1 food suggests a convenience store where the number of car trips is likely to be relatively small. Furthermore, there are large supermarkets (one operating and one with a resolution to grant planning permission) within one kilometre of the adjacent residential site which provide an alternative at limited additional trip length.

Given this, the number of people affected by the delay is likely to be low, and only for a finite period of time prior to the link being provided.

Consequently, (and whilst it is preferable to have such a vehicular connection at the earliest opportunity) subject to appropriate wording of this revised condition, the delay of providing this is, on balance, accepted as not to be a sufficient enough concern to warrant a recommendation of refusal from the highway authority.

With regards the wording, the highway authority is concerned that the negative nature of the current wording put forward by the applicant will frustrate the aspirations of the Masterplan. To overcome these concerns an amendment to the proposed wording is required to ensure **that the link to the northern boundary must be provided and open to vehicular traffic, at a date no later than 4 months following the Oberon Road Link.**

Such a change would allow the applicant to achieve their aspirations, without unnecessarily delaying provision of the connection to the north. Subject to such a change the highway authority would offer no objection.

Finally, it is noted that the applicants have concerns relating to the impact of additional residential traffic on the operation of the Fitzroy Road junction, particularly in the instance prior to a connection to Oberon Road for the above site.

These were, initially, not necessarily ones that the highway authority would agree with. However, more detailed information submitted by the applicant regarding its operation prior to the Oberon Road link connection to the residential site suggests there is an argument that it could struggle operationally.

Nevertheless, the Oberon Road connection, and therefore three access points for the residential site, provides relief such that the Fitzroy Road junction operates as close to, or at, capacity.

The County Head of Planning Transportation and Environment has been asked to comment upon concerns expressed by objectors that if there is only a footpath/cycleway, about the possibility of people driving to the boundary of the adjacent residential site and parking there. Such concerns can be overcome by parking restrictions implemented through a TRO and therefore this is not something that would be of significant concern.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework (NPPF) 2012
Manual for Streets 2007

Exeter Local Development Framework Core Strategy 2012

CP9 – Strategic transport measures to accommodate development
CP18 – Infrastructure requirements and developer contributions
CP19 – Strategic allocations for growth

Exeter Local Plan First Review 1995-2011 Saved Policies

T1 – Hierarchy of modes of transport
T2 – Accessibility criteria
T3 – Encouraging use of sustainable modes of transport

Exeter City Council Supplementary Planning Documents

Planning Obligations SPD 2009
Sustainable Transport SPD 2013

Monkerton & Hill Barton Masterplan Study 2010

Exeter Development Delivery Document - Draft Development Plan Document 2013

OBSERVATIONS

Exeter Core Strategy, in making a strategic allocation for development at Monkerton and Hill Barton, indicates that a new link road will be provided from Fitzroy Road, through the applicant's land, into housing development to the north (the 'Hill Barton Consortium' land). It also states that development should have general regard to guidance within the Monkerton and Hill Barton Masterplan Study.

The Monkerton and Hill Barton Masterplan Study indicates 'secondary streets' linking Honiton Road (via Fitzroy Road) through to Hill Barton Road to the west and around the Met Office to Cumberland Way via Oberon Road.

The Hill Barton Consortium approval for 750 dwellings requires access from Hill Barton Road, but limits the number of dwellings that can be occupied to 500. Occupation of further dwellings is dependent on the applicant demonstrating that an additional access (Oberon Road or Fitzroy Road) is capable of accommodating the traffic, and then providing the necessary connection. The provision of the Oberon Road link is a requirement of the approval if more than 600 houses are to be occupied or five years from the occupation of the 500th dwelling.

The Fitzroy Road link is therefore delivered by the condition which is the subject of this application, together with the Hill Barton Consortium consent. However, it can only be delivered if the Consortium can demonstrate to the satisfaction of the Highway Authority that the traffic generated by the two consents can be accommodated. Otherwise, the number of houses is limited, or the Oberon Road link must be delivered.

A pedestrian and cycle link between the two sites is a requirement of a separate Consortium condition (No.20). The delayed completion of a vehicular link between the sites increases the reliance on delivery of a footpath/cycleway link. The wording of this condition is amended to make it clear routes must be open for public use.

The permitted highway arrangements are appropriate to serve the approved developments, and failure to secure this link for all vehicles would be likely to increase journey lengths and congestion, contrary to national guidance and to the adopted Core Strategy and Monkerton and Hill Barton Masterplan Study.

Essentially the applicants now recognise that a motor vehicle link between their site and the land to the north must be provided, but they are proposing that the eastern access to Oberon Road is in place first.

The Highway Authority has accepted that, on balance, the proposal could be approved with a revised condition. This is because it delivers the link, albeit with a delay until after the Oberon Road link is delivered. The delay is considered to have relatively little impact for the reasons set out in the Highway Authority's consultation response summarised above.

In view of the Highway Authority's advice, it would be difficult to justify refusal of the application.

The original consent was subject to a Section 106 Agreement to secure:

- a contribution of £100,000 for enhancement of sustainable transport facilities in the vicinity of the site; and,
- the mechanism for highway works where they will be the subject of a s38/278 agreement.

A deed of variation to the Agreement will be necessary to ensure that the new consent also secures these requirements.

NORTHERN AREA WORKING PARTY

Members were concerned about the lack of permeability between the site and future residential land to the north. They supported refusal of the application unless a way of providing the link could be found.

RECOMMENDATION

Subject to a deed of variation linking the new consent to the Section 106 Agreement associated with permission 11/1619/01

APPROVE subject to the following conditions:

- 1) Approval of the details of the layout, scale, appearance of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced. The details of layout required under this condition shall provide details of a vehicular connection to the northern boundary of the application site.
Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters, and to ensure that appropriate links are made to adjoining development land.
- 2) C04 - Outline - Exclude Details
- 3) C07 - Time Limit - Outline
- 4) C06 - Time Limit - Approval of Reserved Matter
- 5) No development shall take place until a scheme for the safe management of surface waters in conformity with the submitted Flood Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details.
Reason: In the interests of the safe and sustainable drainage of the site.
- 6) 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 28 September 2011 (*dwg. no. 10705 L01_01C*) and 4 October 2011 (*dwg. no. 31007/PHL/101A*), as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 7) C17 - Submission of Materials

- 8) C34 - Landscape Scheme - Outline
- 9) C36 - No Trees to be Felled
- 10) C37 - Replacement Planting
- 11) No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees, hedges or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2005 - 'Trees in Relation to Construction'. 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: To ensure the protection of the trees during the carrying out of the development.
- 12) C57 - Archaeological Recording
- 13) C70 - Contaminated Land
- 14) Details of all building services plant, including sound power levels and predicted sound pressure levels at a specified location outside the building envelope, to be submitted to and approved in writing by the LPA. The predicted noise levels shall be submitted prior to commencement of the development and shall be demonstrated by measurement prior to occupation of the development.
Reason: In the interests of local amenity.
- 15) The applicant shall submit for approval a management plan for the development. This should describe the steps that will be taken to ensure that noise from use of the development does not have an adverse effect on local amenity. It should include, but not be limited to, the hours of use of the development (including deliveries), supervision and any noise mitigation measures that are appropriate. The approved plan shall be implemented whenever the development is in use and shall be reviewed as required on request of the LPA.
Reason: In the interests of local amenity.
- 16) Construction/demolition work shall not take place outside the following times: 8am to 6pm (Mondays to Fridays); 8am to 1pm (Saturdays); nor at any time on Sundays, Bank or Public Holidays.
Reason: In the interests of local amenity.
- 17) The floorspace of the pub/restaurant element of the hotel use hereby permitted shall not exceed 750m². In addition to the pub/restaurant element of the hotel, the total amount of Class A floorspace shall not exceed 1600m², and no more than 900m² shall be A1 or A3/A4/A5.
Reason: In the interests of minimising vehicle journeys to and from the site and to protect the vitality and viability of existing retail centres.

- 18) No individual Class A unit size shall exceed 750m² in floorspace.
Reason: In the interests of minimising vehicle journeys to and from the site and to protect the vitality and viability of existing retail centres.
- 19) The A3/A4/A5 uses hereby approved shall not include a drive-through element.
Reason: In the interests of minimising vehicle journeys to and from the site and to protect the vitality and viability of existing retail centres.
- 20) Prior to commencement of the development, the location and full details of pedestrian and cycle links (i) from north to south across the site and up to the respective site boundaries, (ii) from west to east along the southern boundary of the site linking to the existing public highway, and (iii) providing full permeability within the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include surface treatments, road crossings, dropped kerbs, lighting, street furniture and signage. The links shall be constructed in accordance with the approved details, be opened for public use in accordance with a timetable agreed in writing by the Local Planning Authority, and be maintained at all times thereafter.
Reason: To ensure that the pedestrian and cycle routes are provided and maintained in accordance with Local Plan policy T3.
- 21) The car parks for public use shall at all times be managed in accordance with details previously submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that customers are not prevented from visiting nearby premises on foot, to encourage them to park in one place and visit multiple neighbouring premises on foot rather than by car, in accordance with Local Plan policy T3.
- 22) Prior to occupation of the development hereby permitted, cycle parking for visitors and secure cycle parking, lockers and showers for staff shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority, and the cycle parking and other facilities shall be maintained at all times thereafter.
Reason: To ensure that cycle parking and other facilities are provided, in accordance with Local Plan policy T3, to encourage travel by sustainable means.
- 23) A comprehensive Travel Plan will be developed for all elements of the development hereby permitted. The acceptability of the travel plan will need to be agreed in writing by the Local Planning Authority and the Local Highway Authority (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport), in advance of the development.

The Travel Plan will need to be prepared in line with prevailing policy and best practice and shall include as a minimum:

- The identification of targets for trip reduction and modal shift
- The methods to be employed to meet these targets
- The mechanisms for review and monitoring
- The mechanisms for reporting
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation

- Implementation of the Travel Plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel Plan following monitoring and reviews

A review of the targets shall be undertaken within 3 months of the occupation of the development and on an annual basis thereafter, at the time of submission of the Annual Travel Plan Report.

Reason: In order that development promotes public transport, walking and cycling, and limits the reliance on the private car.

- 24) The building(s) comprised in the development hereby approved shall be constructed to have all their heating systems (including space and water heating) compatible with the proposed decentralised energy network. Prior to occupation of the development, the necessary on site infrastructure shall be put in place for connection of those systems to the network at a point on the site boundary agreed in writing by the LPA.

Reason: In the interests of sustainable development.

- 25) Any individual building to be developed pursuant to this planning permission shall achieve a BREEAM 'very good' standard as a minimum, increasing to 'excellent' for buildings for which application for approval of reserved matters is made on or after 31st January 2013, and shall achieve 'zero carbon' for buildings commenced on or after 1st January 2019. Prior to the commencement of construction the developer shall submit to the Local Planning Authority a BREEAM design stage assessment report to be prepared by a licensed BREEAM assessor confirming the score expected to be achieved and the BREEAM rating to which this corresponds. Where the score does not meet the minimum standard the developer must provide details of what changes will be made to the development to achieve the minimum standard, and shall thereafter implement those changes. A post completion BREEAM report shall be submitted to the Local Planning Authority within 6 months of the substantial completion of the development hereby approved.

Reason: In the interests of sustainable development.

- 26) The Local Planning Authority shall be notified in writing of the identity of all buildings for which construction has commenced before 1st January 2013, and of the identity of all buildings for which construction has commenced thereafter but before 1st January 2016, within 10 working days following each of those dates.

Reason: In the interests of monitoring the application of sustainable building principles to the development.

- 27) No development shall take place until a Wildlife Plan has been produced by the applicant and approved by the Local Planning Authority.

Reason: To demonstrate how the proposed development will be managed in perpetuity to enhance wildlife.

- 28) Before the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage

Heavy Goods Vehicle (HGV) access to the site. It shall include details of measures to be employed to prevent the egress of mud, water and other detritus onto the public highway. It shall include for the provision of a dilapidation survey of the highways adjoining the site. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: In the interests of minimising the impact of construction works.

- 29) The vehicular connection to the northern boundary of the application site shall be constructed in accordance with the approved details, to the adoption standards of the Highway Authority, and be available for public use, at a date no later than 4 months (or such other timescale as may be agreed by the local planning authority in writing) following the completion and availability for public use of a new full vehicular link and connection between both Hill Barton Road and Oberon Road on adjoining land to the north of the application site in accordance with Planning Permission Ref: 12/0472/01, or any planning permission by which it may be amended and/or superseded.

Reason: To ensure the approved retail/leisure facilities may be conveniently accessible from the proposed development to the north, with appropriate trigger for timing of the link to protect the deliverability of the site and performance of the wider highway network in the vicinity of Fitzroy/Honiton Road.

- 30) No building hereby approved shall be occupied until the applicant has submitted a SAP calculation which demonstrates that, through the use of decentralised energy or local energy networks and/or renewable or low carbon energy sources, a 10% reduction in CO² emissions over that necessary to meet the requirements of the Building Regulations current at the time of Building Regulations approval can be achieved. The measures necessary to achieve this CO² saving shall thereafter be implemented on site.

Reason: In the interests of achieving a sustainable development.

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

Agenda Item 6

ITEM NO.

COMMITTEE DATE:

1 SEPTEMBER 2014

APPLICATION NO:

14/1753/06

WORKS TO TREE(S) IN CONSERVATION AREA

APPLICANT:

Mrs Sheldon

PROPOSAL:

T1 Leylandii Fell

T3 Laburnum Fell

LOCATION:

5 St. Johns Villas, Sivell Place, Exeter, EX2 5ES

REGISTRATION DATE:

21/07/2014

EXPIRY DATE:

01/09/2014



Scale 1:1250

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HISTORY OF SITE

86/00653/03 -	Two-storey extension	PER	21/08/1986
88/00742/03 -	Erection of garage	PER	05/09/1988
89/00899/03 -	Two-storey extension	PER	17/11/1989
14/1753/06 -	T1 Leylandii	Fell	
	T3 Laburnum	Fell	
14/1918/03 -	Extension with dormer in roof	UNK	

DESCRIPTION OF SITE/PROPOSAL

The proposal relates to a leylandii (T1) and laburnum (T3) located in the front garden of 5 St Johns Villas. The site falls within the Heavitree Conservation Area and the application notifies the Council that the applicant intends to fell both trees.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

None.

REPRESENTATIONS

None.

OBSERVATIONS

Owing to the location of the site, the trees provide very limited public visual amenity and their loss will not have a detrimental effect upon the wider Conservation Area. The proposal to remove a further dead tree from within the site does not require consent.

In light of the above, the Council raises no objections to the removal of these trees.

RECOMMENDATION

The making of a tree preservation order is not considered appropriate.

**Local Government (Access to Information) 1985 (as amended).
Background papers used in compiling the report:**

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Civic Centre, Paris Street, Exeter: Telephone 01392 265223

**EXETER CITY COUNCIL
PLANNING COMMITTEE
01 SEPTEMBER 2014**

PLANNING DECISIONS AND WITHDRAWN APPLICATIONS

1 WHAT IS THE REPORT ABOUT

- 1.1 This report lists planning applications determined and applications that have been withdrawn between the date of finalising the agenda of the last Planning Committee and the date of finalising this agenda. Applications are listed by ward.

2 RECOMMENDATION

- 2.1 Members are requested to advise the Assistant City Development Manager Planning (Roger Clotworthy) or City Development Manager (Andy Robbins) of any questions on the schedule prior to the meeting of the Planning Committee.
- 2.2 Members note the report.

3 PLANNING APPLICATION CODES

- 3.1 The latter part of the application reference number indicates the following type of application:

- 01 Outline Planning Permission
- 02 Approval of Reserved Matters
- 03 Full Planning Permission
- 04 Works to Tree(s) with Preservation Order
- 05 Advertisement Consent
- 06 Works to Tree(s) in Conservation Area
- 07 Listed Building Consent
- 14 Demolition in Conservation Area
- 16 Exeter City Council Regulation 3
- 17 Lawfulness of Existing Use/Development
- 18 Certificate of Proposed Use/Development
- 21 Telecommunication Apparatus Determination
- 25 County Matter Application
- 26 Devon County Council Application
- 27 Modification and Discharge of Planning Obligation Regulations
- 37 Non Material Amendment
- 38 Extension to Extant Planning Consent
- 39 Extension - Prior Approval
- 40 Office to Dwelling - Prior Approval

- 3.2 The decision type uses the following codes

- DTD Declined To Determine
- NLU Was Not Lawful Use
- PAN Prior Approval Not Required
- PAR Prior Approval Required
- PER Permitted
- REF Refuse Planning Permission
- RNO Raise No Objection
- ROB Raise Objections
- SPL Split Decision
- WDN Withdrawn by Applicant
- WLU Was Lawful Use
- WTD Withdrawn - Appeal against non-determination

ASSISTANT DIRECTOR CITY DEVELOPMENT

Application Number: 14/1268/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 17/07/2014 DEL
Location: Land bounded by Alphington Road, Ashton Road and, Marsh Barton Road, Exeter, EX2
Proposal: Change of elevational treatment to Unit 10 from previous application 12/0514/03

COWICK

Application Number: 14/1410/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 23/07/2014 DEL
Location: 10 Orchard Hill, Exeter, EX2 9ND
Proposal: Two storey full width rear extension.

Application Number: 14/1542/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 19/08/2014 DEL
Location: St Thomas Baptist Church, Dorset Avenue, Exeter, EX4 1LZ
Proposal: Install new over-sheet roof on main hall

DURYARD

Application Number: 14/0507/03 **Delegation Briefing:** 18/03/2014
Decision Type Permitted **Decision Date:** 18/07/2014 DEL
Location: 26 Streatham Drive, Exeter, EX4 4PD
Proposal: Retrospective permission for timber deck and balustrade

Application Number: 14/0648/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 31/07/2014 DEL
Location: Mary Pole Head Reservoir, Marypole Head, Pennsylvania Road, Exeter, EX4
Proposal: Formation of revised site entrance to the SWW Mary Pole Head Reservoir to improve visibility and formation of pavement link to north and south

Application Number: 14/1299/03 **Delegation Briefing:** 29/07/2014
Decision Type Refuse Planning Permission **Decision Date:** 07/08/2014 DEL
Location: Wembury, New North Road, Exeter, EX4 4AG
Proposal: Demolition of kitchen and garage extension and erection of new dwelling with parking

Application Number: 14/1415/03 **Delegation Briefing:** 15/07/2014
Decision Type Permitted **Decision Date:** 18/07/2014 DEL
Location: Heavitree Post Office, 38 Fore Street, Heavitree, Exeter, EX1 2QL
Proposal: Change of use from post office to micro pub

Application Number: 14/1322/18 **Delegation Briefing:**
Decision Type Was lawful use **Decision Date:** 21/07/2014 DEL
Location: 46 Chard Road, Exeter, EX1 3AX
Proposal: Certificate of Lawfulness for single storey rear extension

Application Number: 14/1342/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 28/07/2014 DEL
Location: Collingwood Mews, Bicton Place, Exeter, EX1 2PG
Proposal: Single storey rear extension; Single storey infill at ground floor beneath existing 'flying' first floor; Modification of garage; Associated modifications.

Application Number: 14/1343/07 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 28/07/2014 DEL
Location: Collingwood Mews, Bicton Place, Exeter, EX1 2PG
Proposal: Single storey rear extension; Single storey infill at ground floor beneath existing 'flying' first floor; Modification of garage; Associated modifications.

Application Number: 14/1405/07 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 30/07/2014 DEL
Location: Rowancroft Court, Fore Street, Heavitree, Exeter, EX1 2QQ
Proposal: The renovation of a boundary wall

Application Number: 14/1416/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 31/07/2014 DEL
Location: 3 North Street, Heavitree, Exeter, EX1 2RH
Proposal: Single storey rear extension. Infill front of side passage by moving gate forwards and enclosing with a roof to match adjacent porch.

Application Number: 14/0954/03 **Delegation Briefing:**
Decision Type Withdrawn by Applicant **Decision Date:** 18/07/2014
Location: 45/47 Denmark Road, Exeter, EX1 1SQ
Proposal: Change of use from doctors consulting rooms/office to residential

Application Number: 14/1370/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 18/07/2014 DEL
Location: 9 Clifton Hill, Exeter, EX1 2DL
Proposal: Tree No Species Works
 T1-2 Sycamore Fell

Application Number: 14/1453/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 18/07/2014 DEL
Location: 1 Baring Crescent, Exeter, EX1 1TL
Proposal: Tree no. Species Work
 T1 Leylandii Fell
 T2 Laburnum Fell

Application Number: 14/0860/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 24/07/2014 DEL
Location: Henry's Bar, Mount Pleasant Road, Exeter, EX4 7AB
Proposal: Window replacement

Application Number: 14/1679/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 07/08/2014 DEL
Location: The Maynard School, Denmark Road, Exeter, EX1 1SJ
Proposal: Tree No Species Works
 T1A Willow Fell
 T36 Lime Remove epicormic growth
 T45 Western Red Cedar Fell
 T46 Cypress Fell

Application Number: 14/1420/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 12/08/2014 DEL
Location: 6 Baring Crescent, Exeter, EX1 1TL
Proposal: Change of use from offices to D1 (osteopathic and health clinic).

Application Number: 14/1632/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 08/08/2014 DEL
Location: 13 Mont Le Grand, Exeter, EX1 2PD
Proposal: T1 Holm Oak Crown reduce by 2m

Application Number: 14/1481/18 **Delegation Briefing:**
Decision Type Was lawful use **Decision Date:** 16/07/2014 WLU
Location: 7 Fowey Close, Exeter, EX1 2PY
Proposal: Ground floor side extension

PRIORY

Application Number: 14/1353/03 **Delegation Briefing:**
Decision Type Refuse Planning Permission **Decision Date:** 29/07/2014 DEL
Location: 26 Shakespeare Road, Exeter, EX2 6BU
Proposal: Two storey extension to the rear of the property.

Application Number: 14/1504/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 07/08/2014 DEL
Location: 2 Mill House, Mill Lane, Exeter, EX2 6JL
Proposal: Erection of timber garage

Application Number: 14/1551/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 08/08/2014 DEL
Location: 3 Fernpark Close, Exeter, EX2 6AW
Proposal: Rear single storey extension

Application Number: 14/1950/37 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 18/08/2014
Location: Plot 4, Millbrook Lane, Exeter, EX2 6ER
Proposal: Alteration to ground floor rear elevation of plot 4 to remove french doors and separate window and replace with bi fold doors. (Non-material Minor Amendment of planning permission Ref 13/4560/02 granted 28th February 2014).

Application Number: 14/1035/03 **Delegation Briefing:** 01/07/2014
Decision Type Permitted **Decision Date:** 17/07/2014 DEL
Location: 206 Topsham Road, Exeter, EX2 6AA
Proposal: Provision of integral garage and replacement rear extension following demolition of existing rear extension and detached garage.

ST DAVIDS

Application Number: 14/0853/03 **Delegation Briefing:**
Decision Type Refuse Planning Permission **Decision Date:** 23/07/2014 DEL
Location: 22 St. Davids Hill, Exeter, EX4 3RQ
Proposal: Demolition of an existing ground floor extension and the provision of a new three storey extension to an existing educational premises

Application Number: 14/1499/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 25/07/2014 DEL
Location: St. Davids Churchyard, adj. 10, Little Silver, Exeter, EX4
Proposal: T1 Oak Remove branches overhanging neighbouring properties

Application Number: 14/1696/37 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 25/07/2014 DEL
Location: 6 Richmond Road, Exeter, EX4 4JA
Proposal: Non material minor amendment to 13/3925/03 for a new fire ventilation rooflight

Application Number: 14/1369/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 28/07/2014 DEL
Location: 12 Dinham Road, Exeter, EX4 4EE
Proposal: Rebuilding of rear two storey extension

Application Number: 14/1280/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 30/07/2014 DEL
Location: Exeter College, 33-36, Queen Street, Exeter, EX4 3SR
Proposal: Variation of Condition 4 granted for planning application number 12/1619/03 on 15 April 2014

Application Number: 14/1408/07 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 30/07/2014 DEL
Location: 37 Lower North Street, Exeter, EX4 3EU
Proposal: Replacement of single glazed Crittall steel windows, softwood casement windows and softwood door on rear elevation with 'slimline' double glazed Crittall windows and door

Application Number: 14/1283/07 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 31/07/2014 DEL
Location: 17 The Mint, Exeter, EX4 3BL
Proposal: Replacment velux window to kitchen roof

Application Number: 14/1536/03 **Delegation Briefing:** 29/07/2014
Decision Type Permitted **Decision Date:** 31/07/2014 DEL
Location: 54 St. Davids Hill, Exeter, EX4 4DT
Proposal: Single storey rear extension and minor alterations

Application Number: 14/1537/07 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 31/07/2014 DEL
Location: 54 St. Davids Hill, Exeter, EX4 4DT
Proposal: Single storey rear extension and minor alterations

Application Number: 14/1417/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 05/08/2014 DEL
Location: 39C New Bridge Street, Exeter, EX4 3AH
Proposal: The conversion of an existing retail and workshop premises to residential, including the enlargement in height of some existing volumes, and the addition of new window openings.

Application Number: 14/1580/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 12/08/2014 DEL
Location: St. Peters House, Friars Walk, Exeter, EX2 4AY
Proposal: Proposed replacement windows

Application Number: 14/1816/17 **Delegation Briefing:**
Decision Type Was lawful use **Decision Date:** 13/08/2014 DEL
Location: 18 Haldon Road, Exeter, EX4 4DZ
Proposal: Student Accommodation

Application Number: 14/1192/07 **Delegation Briefing:** 15/07/2014
Decision Type Permitted **Decision Date:** 18/08/2014 DEL
Location: Dean Clarke House, Southernhay East, Exeter, EX1 1PQ
Proposal: Provision of balconies at first, second and third floor on south east elevation of Victoria Wing

Application Number: 14/1193/03 **Delegation Briefing:** 15/07/2014
Decision Type Permitted **Decision Date:** 18/08/2014 DEL
Location: Dean Clarke House, Southernhay East, Exeter, EX1 1PQ
Proposal: Variation of condition two to approve amended drawings showing balconies at first, second and third floor on south east elevation of Victoria Wing (Ref No 11/1951/03)

Application Number: 14/1636/05 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 11/07/2014 DEL
Location: 1-3 High Street, Exeter, EX4 3LF
Proposal: Replacement of shop front fascia sign and projecting sign

Application Number: 14/1338/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 16/07/2014 DEL
Location: Exeter College of Further Education, Hele Road, Exeter, EX4 4JS
Proposal: The provision of 8 Temporary Classrooms for One Year - August 2014 to July 2015

Application Number: 14/1357/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 16/07/2014 DEL
Location: 79-81 Queen Street, Exeter, EX4 3RP
Proposal: Extension of hours for outdoor seating area from 7am-6pm to 7am-21.30pm (Variation of Condition 5 on planning permission Ref. 04/0387/03 granted 19 April 2004)

ST JAMES

Application Number: 14/0491/01 **Delegation Briefing:**
Decision Type Refuse Planning Permission **Decision Date:** 22/07/2014 COM
Location: Bricknells Bungalow, Old Rydon Lane, Exeter, EX2 7JW
Proposal: 50 dwellings (including affordable housing) with associated open space and access (the proposed development includes the demolition of existing outbuildings)

Application Number: 14/1281/03 **Delegation Briefing:**
Decision Type Refuse Planning Permission **Decision Date:** 22/07/2014 DEL
Location: 16B Monmouth Street, Topsham, Exeter, EX3 0AJ
Proposal: Two storey rear extension

Application Number: 14/1425/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 22/07/2014 DEL
Location: The Mews, Riversmeet, Topsham, Exeter, EX3 0BE
Proposal: Tree no. Species Work
 T1 Pine Remove large limb overhanging wall
 T2 Holm Oak Reduce stem over wall by 3-4m
 T3 Holm Oak Crown reduction by 4-5m

Application Number: 14/1430/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 22/07/2014 DEL
Location: 91 Fore Street, Topsham, Exeter, EX3 0HQ
Proposal: Tree No Species Works
 T1 Holly Fell

Application Number: 14/1440/04 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 22/07/2014 DEL
Location: 5 Harrington Lane, Exeter, EX4 8PF
Proposal: Tree no. Species Work
 T2-4 Red Cedar Reduce by 4-5m and cut back to allow 2m clearance of dwelling

Application Number: 14/1303/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 23/07/2014 DEL
Location: 49 Exeter Road, Topsham, Exeter, EX3 0LX
Proposal: Construction of part single storey, part 2 storey rear extension and porch on front elevation.

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 1 September 2014
Report of: Assistant Director City Development
Title: Appeals Report

DRAFT

Is this a Key Decision?

No

Is this an Executive or Council Function?

No

1. What is the report about?

The report provides Members with information on the latest appeal decisions received and a record of new appeals submitted to the Planning Inspectorate.

2. Recommendation:

Members are asked to note the report.

3. Summary of decisions received

The following provides a summary of the six decisions have been received since the last report. Five were dismissed and one was allowed. Copies of the decision letters are available online through searching planning application reference numbers on the City Council website.

**3.1 16 Marlborough Road - Dismissed
Application 13/3883/03 – new dwelling**

The application, refused by Planning Committee on 30 September 2013, proposed a new dwelling in the large rear garden with vehicular access onto a private lane. The Inspector's report commented on the contemporary design being appropriate to its stand alone location; subservient to adjoining oak trees and would stand upon an area of garden acquired from another property so avoiding harm being caused to the historic garden pattern. He considered that due to its large scale, overt appearance and isolated position on a backland plot disconnected from a formal road frontage, it was poorly integrated in visual and functional terms with the pattern of development. He concluded that the proposal was in conflict with policies in failing to preserve or enhance the character of the CA. Harm caused to the conservation area would be less than substantial so a balancing exercise between harm and public benefits arising from the proposal were considered.

It would be a high quality house and add to the mix and overall quality of housing and would help underpin local shops and businesses. However it was considered that these benefits would be outweighed by the harm that would be caused to the character and appearance of the conservation area and therefore its significance. He also commented on the sole means of access, its constraints and unsuitability. It was noted that the appellant did not have right of access but this was considered to be a legal not planning issue.

3.2 7 Herschell Road – Dismissed
ENF/11/0026 issued 16 December 2013 re erection of scaffold (not being a temporary structure, erection of raised platform at roof level on an open framework within the recess between no 7 and no 5 Hershell Road)

At the time of the Inspector's visit, which had been made known to the appellant, the offending structure was partly covered and no access to the house was permitted. The Inspector reviewed photographs and was able to compare them to the structure that existed at the time of his visit. He was unclear from the information before him what the true purpose of the alleged platform was and the appeal on ground (b) failed, that onus of proof had not been discharged to show that the scaffold was not a structure. Ground (c) failed both in respect of the platform and scaffold not being permitted development. Ground (d) of the appeal related to the appellant's assertion that the structure had been in place for over four years. The Inspector referred to a number of documents which disputed or cast doubt on the appellant's claim. The appellant lodged a further ground (f) in a letter to the Inspectorate dated 17 January 2014 that alterations undertaken were adequate to address the harm. Options to reduce the height of scaffolding were not considered acceptable.

There was no time extension added to the period of 28 days in which to undertake removal work. The probability of good weather and sufficient daylight should enable work to be undertaken in agreed working hours so ground (g) also failed. The appeal failed and the enforcement notice was upheld.

3.3 17 Melbourne Street – Dismissed
Application 14/0416/04 – Work to fell one quince tree

The main issue was the effect of the removal on the appearance and setting of the Southernhay and Friars Conservation Area and whether the relationship of the tree to the neighbouring features provides justification for the work.

The tree is located at the rear of No. 17 close to the rear access to the terrace off Colleton Mews. It is visible from Colleton Row and adjacent gardens and dwellings. Although a small tree it is of a size in-keeping with its setting, giving an element of greenery to the back gardens, which contributes to the appearance and setting of the CA. This contribution would be lost if the tree were felled.

A larger tree (now removed) is likely to have caused damage to a wall. The Inspector considered that the wall could be rebuilt whilst accommodating the quince and that minor surgery could address growth impacts on the adjacent garden and rear access. The reasons put forward for approval were not considered sufficiently compelling to outweigh the effect of the proposal.

3.4 41 Park Lane – Dismissed
Application 14/0271/03 – Alteration and extension to provide relocated kitchen and dining room at ground floor level and master bedroom with en-suite at first floor level.

The first main issue was the impact of the development on the street scene and its relationship in design terms to the existing and adjoining properties. The second issue was the effect of living conditions of adjoining occupiers with particular reference to their outlook and its appearance.

The property is a semi detached dwelling on the south side of Park Lane, a steeply graded road with dwellings of mixed architectural styles, some of which have been

subject of alterations and extensions. It has a steeply pitched ridged roof with small tile hung gable above the front bedroom. The positioning of the property offers limited space at the rear and the boundary with No1 Bindon Road is a conifer hedge. The extension would project forward of the main building line and include a new front gable which the Inspector considered would be incongruous and be a dominant feature in the street scene and have a poor and uncomfortable relationship with the existing pair of dwellings contrary to adopted policies.

The Inspector viewed the site from within the garden of 1 Bindon Road and considered that with the extension coming approx 3.5 metres from the boundary, the proposal would have a very dominant appearance to the detriment of the amenities enjoyed by the occupiers of that property, conflicting with Local Plan Policy DG4.

3.5 Land to West of Pilton Lane - Dismissed **Application 14/0057/03 Development to form 41 retirement living apartments for older persons including communal facilities and associated car parking and landscaping**

This application for 41 retirement homes was considered by Committee on 17 March and delegated authority was granted to determine the application subject to agreement of a S106 agreement to secure affordable housing, if found to be viable, and connection to the proposed district heating network. Subsequent to that, the application was refused on 17 April in the absence of that agreement. The resulted in a Hearing held on 8 July.

The main issue was whether the requirement for a planning obligation in relation to a financial contribution towards affordable housing provision would result in the development being unviable. Policy CP7 of the Core Strategy required that on sites capable of providing 3 or more dwellings, 35% of the total housing provision should be made available as affordable housing. The Inspector's report then went into considerable detail comparing the appraisals provided by both parties in support of their position. The main difference between the parties in terms of viability of the site relates to the overall construction costs, taking account of the basement car park. He favoured the Council's evidence that a contribution of £630,000 was viable.

He reported that in the absence of a planning obligation to secure a financial contribution, the proposal would fail to comply with the Core Strategy, Local Plan, the AH SPD and also contravene requirements of paras 7 and 50 of the NPPF. In the absence of a contribution mechanism the development would fail to represent a sustainable form of development in the context of the definition set out in para 7 of the Framework.

There would be a positive contribution for housing for older people, the financial benefits that the residents could bring to the economy, short and long term employment benefits and receipts from CIL and NHB. The design and scale of development were considered acceptable.

He concluded that the scheme would be sufficiently viable to make a financial contribution towards the provision of affordable housing but with no obligation to secure a financial contribution, the proposal fails to comply with various policies. He commented on the defined need for affordable housing within the City stating that delivery of AH is a key component of delivering inclusive and mixed communities and sustainable development. He did not consider that material considerations in favour of the proposal were sufficient to outweigh the requirements of the Development Plan.

3.6 55 Rosebank Crescent – Allowed with conditions
Application 13/4847/03 Rear first floor extension over existing lean-to roof and over existing ground floor extension; a rear ground floor single storey extension; loft conversion; bay and porch extension and alteration to the front of the property and rear garage extension.

The Inspector noted that the Appellant's made considerable efforts between the submission of the application in November 20103 and the eventual refusal in March 2014 to secure acceptable amendments to comply with Council requirements, without success; and a further amendment after refusal to overcome 'errors' was included in the appeal submission. The Inspector was content to deal with these amendments in determining the appeal.

The main issue was the impact of the development on the street scene and in its relationship in design terms to the existing and adjoining properties, having regard to Council's development plan policies and SPD; and whether the mass and scale of the extensions would have any adverse impact on the occupiers of adjoining dwellings.

The Inspector regarded Rosebank Crescent as a residential street of considerable variety in architectural style and ages of property but being predominantly of detached dwellings, noting there was no consistency of design and includes a substantial new property on three levels a short distance from the appeal site.

The Council had raised concerns about a range of different elements but raised no issue regarding the garage extension. Revised drawings show the reduced porch height to be permitted development. The external front door already had a porch and the proposed new porch would have no adverse impact and this also applied to alterations to the existing double storey front bay windows.

The main area of contention appeared to relate to the two storey side addition at the rear of the dwelling whereby a new projecting ridged roof with half hipped end was proposed over the existing footprint of the dwelling. The scheme would increase the mass and height compared with existing footprint. The Householder Extensions SPD encourages extensions to be subservient in their scale and appearance. He viewed adjoining properties on the same side of the Crescent, gaps between properties and from various vantage points and was satisfied that it would not be out of character. In respect of the rear extension for a family room/kitchen extension he considered there would be no loss of light to neighbouring properties, nor would it conflict with the need to protect amenity.

Overall he concluded that the development would not have an adverse impact on either the street scene or in its relationship in design terms to the existing and adjoining properties. Mass and scale would not be such as to have any adverse impact on occupiers of adjoining properties.

4. New Appeal

No new appeals have been submitted.