

PLANNING COMMITTEE

Monday 13 January 2025

Present:-

Councillor Paul Knott (Chair)

Councillors Patrick, Asvachin, Banyard, Bennett, Hussain, Jobson, Ketchin, Miller-Boam, Mitchell, M, Pole and Rolstone

Also Present

Strategic Director for Place, Planning Solicitor, Principal Project Manager (Development) (MD), Assistant Planning Manager (HS) and Democratic Services Officer (PMD)

1

DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

2

PLANNING APPLICATION NO. 24/0911/MDO - THE HARLEQUIN CENTRE, PAUL STREET, EXETER EX4 3TT

The Assistant Service Lead – Development Management (Major Projects) presented the application to modify the s106 legal agreement tied to planning permission ref. 21/1104/FUL to pay a financial contribution in lieu of the provision of affordable private rent units to improve scheme viability.

Members received a presentation which included:-

- site location plan;
- aerial views;
- overview of permitted scheme;
- approved site plan;
- streetscenes;
- hardworks plan – landscaped gardens;
- softworks plan – pocket park;
- interpretation centre;
- new footbridge;
- LVIA views – Upper Paul Street, Queen Street and proposed landscaped gardens;
- S106 planning obligations; and
- Recommendation.

The Assistant Service Lead – Development Management (Major Projects), the Strategic Director for Place and the Planning Solicitor responded to questions from Members as follows:-

- details on the viability study were set out in the report;
- discussions with the developer had started in 2023;
- the S106 money to be paid by the developer would be capped at £7.5m;
- the developer had agreed to pay some of the money (£2m) upfront;
- the remaining £5.5m would be subject to a further valuation exercise;
- the scheme was expected to be delivered towards the end of 2027;

- it was difficult to determine how many 1- and 2-bedroom units Exeter City Council would acquire with the £7.5m;
- the money would be spent on any form of affordable housing, as per the National Planning Policy Framework (NPPF);
- it was incorrect to state that the deed of variation would result in Exeter losing homes;
- the deed of variation would make the scheme viable;
- the funds would come to ECC directly;
- ECC had used S106 money for the purchase of second-hand homes in the past;
- up to five years after an application has been approved, the applicant would have to seek the approval of the Council for any further deed of variation. After five years, the applicant could make an application to amend the s106;
- this was very much a one-off situation caused by exceptional circumstances and had not been the first choice of planning officers;
- if the present application was refused, the scheme would not be built and the site would remain in its current state;
- there would be no right of appeal against the decision taken at the present meeting;
- all types of affordable housing were required in the city;
- there was no evidence that the city centre is more in need of homes for key workers than any other part of the city;
- the Planning Committee could not direct how the spending of the S106 money would be conditioned;
- the S106 money would be ringfenced for affordable housing;
- interest rates and rising building costs were some of the factors considered by the independent valuer in the viability study; and
- it was expected that the affordable housing would remain so in perpetuity.

Speaking under Standing Order 44, Councillor Moore made the following points:-

- the affordable housing element was a key factor of the original application;
- allowing the deed of variation would make the housing crisis worse;
- the Planning Committee was being asked to give up 20% of bed space;
- this was too big a decision to gamble on affordable housing;
- while £7.5m was a considerable sum, it would not solve the housing crisis;
- there was a clear difference between unlocking sites and building homes;
- the Council did not provide social housing for single young people;
- demand was indeed greatest in the city centre;
- the developer left it late to submit the deed of variation;
- the Building Cost Information Service (BCIS) forecast price rises were now at 17% (compared to 22% in 2022), and changing the S106 conditions would not make it cheaper to build;
- the value of the site was only what the developer paid for it;
- the £1m upfront payment was a delaying mechanism;
- the developer had factored in an exit yield in their own viability assessment;
- there was a risk of the developer going bankrupt halfway through the proceedings;
- there would be a risk of harm to the heritage asset (city wall);
- the parallel made to the exceptional circumstances of the Clarence Hotel was disingenuous;
- Exeter City Council are not getting more by receiving £7.5m through the change of S106 conditions;
- the four wheelchair accessible units would be open-market, when they ought to be affordable; and

- if the Council was clear in its objections, the developer would have to rethink the scheme.

In responses to questions from Members, Councillor Moore made the following further comments:-

- seeing as the developers had started demolishing, they should pay £1m upfront if the application was approved;
- she had not been convinced of the benefits of co-living;
- even though council housing was not available for single young people, demand was high;
- rather than escalating the housing failure, refusing the proposal would force developers to come up with a better scheme;
- it would be better to deliver housing suited to people long-term; and
- she was not attending the meeting to defend the scheme but to stand up for single young people.

The Strategic Director for Place made the following concluding points:-

- an independent, open-book process had taken place in order to establish viability;
- exceptional circumstances had resulted in the scheme being unable to be delivered as originally applied for;
- refusing the present application would result in a blight on the centre of town;
- officers would have preferred the original scheme but the variation would now make the scheme viable;
- it was highly unusual for developers to offer to pay £2m upfront; and
- the question of Members' preferred type of affordable accommodation was not what was being discussed at the present meeting.

During debate, Members expressed the following views:-

Councillor Knott:-

- felt that deliverability was key;
- highlighted the independent viability assessment;
- saw the approval of the variation as a means for ECC to take the initiative; and
- reminded Members that it was only one part of the S106 agreement which was being amended.

Councillor Patrick:-

- recognised the risk of further variations being brought back to Committee in the future;
- was keen for ECC to secure the funds as soon as possible; and
- felt it was naïve to think that a 'perfect' developer would come forward and take over if the Committee refused the application.

Councillor M Mitchell:-

- reminded Members that the application was controversial when it first came to Committee and had first been advertised a purpose-built student accommodation;
- supported the recommendation but felt it amounted to a 'get out of jail free' card for the developer;
- saw no guarantee that the developer would carry out the scheme; and
- stressed the need to ringfence the funds for Exeter.

Councillor Jobson:-

- reluctantly supported the application;
- felt that key workers would be better off trying to find property on the second-hand market;
- expressed concern that the developer had taken a long time to finally choose to change the S106 conditions;
- did not like how ECC were essentially being held hostage by the developer but found it preferable to take the money being offered; and
- called for any approval to be tied up legally as much as possible.

Councillor Ketchin:-

- referred to other co-living schemes in the city; and
- advised that he would be making a decision on the application based on what he knew to be true rather than assumptions.

Councillor Banyard:-

- regretted that the project as originally applied for was not deliverable;
- disputed that a price hike in construction costs counted as exceptional circumstances, given that everything was affected by inflation;
- felt it important to stand up for Exeter City Council's Affordable Housing SPD; and
- would not support the recommendation.

Councillor Miller-Boam:-

- expressed disappointment at the unviability of the original proposal but welcomed the reassurances given by officers as well as the upfront payment from the developer; and
- was keen to see progress being made as quickly as possible.

The recommendation was to delegate to grant completion of a Deed of Variation to the s106 agreement relating to planning permission 21/1104/FUL to pay a financial contribution in lieu of the provision of affordable private rent units.

The Chair moved and Councillor Patrick seconded the recommendation, which was voted upon and CARRIED.

RESOLVED to delegate to grant completion of a Deed of Variation to the s106 agreement relating to planning permission 21/1104/FUL to pay a financial contribution in lieu of the provision of affordable private rent units.

**PLANNING APPLICATION NO. 24/0820/FUL - 47-48 SIDWELL STREET,
EXETER, EX4 6NS**

The Assistant Service Lead – (DM) City Development presented the application for Change of use from vacant restaurant and takeaway (Sui Generis Use Class) to 24/7 Adult Gaming Centre (Sui Generis Use Class). She explained that:-

- the applicant had lodged an appeal in December 2024 with the Planning Inspectorate on the grounds of non-determination of this application within the statutory timeframe;
- the appeal would now be decided by the Planning Inspectorate;
- however, the Planning Committee was asked to consider what decision it would have made if it were still within its remit to determine the application; and
- the Planning Committee's views would be reflected in the council's formal submissions to the Inspectorate.

Members received a presentation which included:-

- site location plan;
- aerial views;
- view of rear of site in Acland Road;
- views to south west and north east in Acland Road;
- views of adjacent properties and of Sidwell Street;
- proposed ground floor plan & front elevation;
- proposal overview;
- key planning issues; and
- officer recommendation.

A Member enquired about the reasons for the statutory timeframe being missed; the Chair advised that team management issues would not be discussed at the present meeting.

The Assistant Service Lead – (DM) City Development responded to questions from Members as follows:-

- the three conditions suggested by Environmental Health were: restrictions around the hours of use, limitations during construction hours and additional noise insulation;
- licensing matters such as opening hours could be considered by the Planning Committee if they were material to the application;
- the Inspectorate would be assessing the application on the assumption of round-the-clock opening hours;
- the licensing side of the project had already been heard by Exeter City Council's Licensing Sub-Committee, which was a totally separate process;
- she was unable to confirm if there would be public conveniences for users on site. As this was a change of use application, such information was not required;
- there was a condition recommended in the report around the shop frontage;
- while officers recognised the existence of a school and of places of worship in the vicinity of the site, the policy in place was about noise and general disturbance;
- while it was noted that the applicant already ran a similar operation in another part of the city, conditions could be recommended that were specific to this unit;
- all comments made and recorded at the present meeting would be sent to the Inspectorate.

Members expressed disappointment that no representatives for the applicant were in attendance.

Speaking under Standing Order 44, Councillor Palmer made the following points:-

- the socio-economic makeup of Sidwell Street, in particular the index of deprivation, made the proposed location particularly inappropriate;
- the Gambling Statement in Exeter's Local Plan stated that such premises would not be permitted where they were in close proximity to schools, sixth form colleges, hostels or support services for vulnerable people or religious buildings;
- evidence suggested that harmful gambling should be considered a public health issue because it was associated with harms to individuals, their families, close associates and wider society;
- research from the University of Bristol had shown that, as of November 2020, 21% of gambling premises were based within the most deprived

decile of areas in the country, compared to just 2% in the least deprived decile;

- Exeter's own policy highlighted six Lower Super Output Areas (LSOAs) within the city which represented some of the most deprived areas in England ("very low deprivation"), affected by unemployment, low education, skills and training, low income and poor health and disability. All six of the LSOAs fell within the 20% of most deprived areas in England, with Sidwell Street falling within the 10% of most deprived areas in England;
- no key partners such as CoLab or the YMCA had been consulted;
- there were 15 different hostels within a ten-minute walk of the site;
- the nearby mosque alone attracted 2,000 worshippers (and Islam specifically forbade gambling);
- the applicant disingenuously compared the proposal to an amusement arcade;
- the applicant was currently under investigation by the Gambling Commission;
- the NPPF recommended 'active frontages';
- local residents had the right to live without fear of crime;
- the noise report submitted had been light on detail; and
- she disagreed with the "benefits" to Sidwell Street referred to in the officer report.

Other areas of concern raised by Councillor Palmer included:-

- the safety of lone women using the premises (both as customers and as staff members);
- the lack of public transport provision around Sidwell street after a certain time; and
- the risk of having clusters of 'unhealthy' businesses.

Finally, Councillor Palmer recommended that, should the application be approved, the following conditions be imposed:-

1. extensive sound proofing for residents living above the premises;
2. additional safety measures to protect staff and lone visitors to the site assured safe travel home for female staff working late in the evening;
3. given the concerns around anti-social behaviour and noise, additional security to be in place at all times;
4. provision of customer facilities, in particular late at night when no public facilities are open;
5. an attractive frontage (i.e. not blacked out) that supports a vibrant regenerated street;
6. that consideration is given to external lighting, ensuring the premises is well lit up that does not cause disturbance to residents living above and nearby; and
7. that the Council is satisfied that the applicant abides by the requirement to pay staff the minimum wage.

In responses to questions from Members, Councillor Palmer made the following further comments:-

- she was aware that some of the point she had raised were not the remit of the Planning Committee but she nevertheless felt that these issues ought to be brought up in the public domain;
- gambling was potentially a public safety issue;
- it would not take much for Sidwell Street to 'erupt';
- an employer paying less than the minimum wage represented a danger to health within local communities; and

- a mural would be a better option than either a blacked out frontage or an open frontage.

The Chair clarified that:-

- the nature and/or reputation of the applicant was totally irrelevant to the Planning Committee; and
- only the views of statutory consultees had to be sought and it was not standard practice for ECC to proactively approach local organisations or charities that were not statutory consultees, although such organisations were obviously welcome to make representations.

The Strategic Director for Place made the following concluding points:-

- Members must consider what their decision would have been had the application not been appealed for non-determination;
- in reaching a decision, Members needed to make a balanced planning consideration;
- Members should not duplicate factors covered by other forms of legislation, however passionately they might feel about certain issues;
- the fact that the application would now be determined by the Planning Inspectorate, it was even more important for Members to act reasonably in putting forward evidence to the Inspectorate.

During debate, Members expressed the following views:-

Councillor M Mitchell:-

- expressed frustration that non-determination had resulted in the decision-making being entirely in the hands of the Inspectorate;
- highlighted the difficulty of weighing up the Committee's approach in reporting to the Inspectorate;
- wondered if, while the proposal was for a legitimate business use, Sidwell Street was really the best location for it rather than e.g. Princesshay or the Guildhall Shopping Centre;
- reminded Members of the high deprivation of Sidwell Street, where the pharmacy was also a methadone dispensary;
- was opposed to the proposed business being set up at this particular premises; and
- agreed with the conditions recommended by Councillor Palmer.

Councillor Patrick:-

- expressed concern about noise and anti-social behaviour;
- favoured blacked-out shop window over visible slot machines; and
- categorically disapproved of the business being open 24/7.

Councillor Jobson:-

- reassured officers that she was considering the application as if it was not going to appeal;
- felt that the demographic of Sidwell Street was precisely why the applicant had chosen this specific location;
- recommended that any approval be subject to the most stringent conditions around noise;
- agreed with the conditions recommended by Councillor Palmer and would like to see an additional condition around the premises having male, female and accessible toilets;
- favoured a tasteful mural over a blacked out shop front;
- stressed that it must be made clear that Acland Road can only be used as an emergency exit and not to let customers in; and

- was against the proposal on balance.

Councillor Ketchin:-

- reminded Members that, if they were minded to recommend refusal, they would have to provide reasons for it; and
- regretted the fact that Exeter City Council did not have a policy on gambling like it did on prostitution.

Councillor Rolstone:-

- made specific reference to Sidwell Street being an area of multiple deprivation;
- agreed with the points made by Councillor Palmer around proximity to places of worship and opening times outside public transport hours; and
- highlighted the importance of the policy framework around healthy neighbourhoods.

Councillor Knott:-

- felt that the issue of opening hours was best left to Licensing;
- agreed that noise mitigation must be conditioned, specifically soundproofing;
- preferred a blank frontage with no advertising or branding whatsoever; and
- would recommend approval but with firm conditions.

The Planning Solicitor suggested that, in terms of a recommendation, the wording could be:-

The Chair moved, and Councillor Patrick seconded, that the Planning Committee approve the following procedure:-

- 1- indicative vote on the proposed change of use;
- 2- discussion; and
- 3- if appropriate, identifying clear material grounds for opposing the change of use.

On a vote, this was CARRIED.

Having taken an indicative vote on the proposal, Members OPPOSED the change of use.

The Strategic Director for Place asked Members to formulate their grounds for refusal. Reasons put forward by Members included:-

- the need for healthy communities;
- the need to stop the proliferation of similar facilities within walking distance;
- proximity to places of worship;
- the high number of schoolchildren walking past the premises;
- how approving the proposal would undermine the good work that ECC is trying to do in the area; and
- national guidance on balance.

The Assistant Service Lead – (DM) City Development read out the supporting text on gambling and clarified that the reasons put forward to the Inspectorate could include:-

- noise; and
- general disturbance.

The Strategic Director for Place made the following points:-

- he felt that that officers' views had been misrepresented;
- some of the issues brought up by Members were hard to evidence;

- officers in the room were trying to advise on what would be acceptable in terms of grounds for refusal, so as to avoid costs to the Council; and
- he suggested Members limit their reasons for refusal to those contained within the policy.

A Member suggested delegating to the Chair the approval of the report which would go to the Inspectorate.

Replying to another Member's request to make reference to Sidwell Street being a high-crime area, the Strategic Director for Place explained that the Police had expressed no objection to the proposal and, consequently, including this as grounds for refusal would contradict the advice received.

The Chair proposed, and Councillor Patrick seconded, the following recommendations:-

- 1- That officers prepare and submit an appeal statement outlining the Council's position opposing the proposal on the basis of:-**
 - **policy S6;**
 - **general disturbance and proximity to such buildings as local churches and schools; and**
- 2- That the approval of the appeal statement be delegated to the Head of City Development, in agreement with the Chair of the Planning Committee.**

On a vote, the recommendations were CARRIED.

4

PLANNING APPLICATION NO. 22/1620/FUL - THE BOAT HOUSE, FERRY ROAD, TOPSHAM, EXETER

The Assistant Service Lead – (DM) City Development presented the application for Redevelopment of an existing boat repair and maintenance storage shed with accommodation above.

Members received a presentation which included:-

- site location and aerial view;
- constraints – designated heritage assets;
- view from steps of Grade II* listed St Margarets church;
- constraints – environmental/ecological;
- site photographs;
- earlier superseded scheme;
- revised/current scheme;
- proposed side elevation and ground floor plans;
- proposed river front elevation and first floor plans;
- proposed Ferry Road elevation and floor plans;
- sections;
- shadow study;
- building heights;
- visualisations;
- LVIA viewpoints;
- summary of objections and expressions of support;
- assessments from statutory consultees; and
- officer recommendation.

The Assistant Service Lead – (DM) City Development responded to questions from Members as follows:-

- the balcony would be set back from the edge of the roof;
- the planning officer has consulted ECC's own archaeological expert about the proposal;
- the proposal, if approved, would enable the accommodation of bigger boats for maintenance and repair;
- there was a residential element to the scheme measuring 215sqm (on the upper floor);
- mitigating measures would be put in place against flooding;
- no objections had been received from the Environment Agency; and
- no discussions have taken place as part of the planning process with the Harbour Master or the Marine Management Organisation.

Speaking under Standing Order 44, Councillor M Williams made the following points:-

- the report faithfully represented both the aspirations of the applicant and the concerns of residents;
- the applicant deserved credit with regard to the evolution of the application over many years;
- if the proposal was approved, construction would likely start in spring or summer and would therefore have an impact on Topsham's peak tourist season;
- the narrow nature of Ferry Road had to be taken into account, specifically the risk of construction vehicles being stuck if attempting a sharp turn;
- clarity was needed around construction hours;
- concerns had been raised by residents about building materials;
- there was a feeling among residents that the consultation period had been too short; and
- in deliberating, Members would have to consider both the concerns raised by residents (particularly with regard to the nature of Topsham's classic narrow streets and potential impact on residents and tourists alike) and the needs of a long-standing Topsham business and catering for activities linked to the "Port of Exeter".

Mr Marc Millon, speaking against the application, made the following comments:-

- he had lived at Quay Cottage for 43 years;
- he was representing close neighbours as well as 64 objectors;
- the original application was for two storeys;
- the finishing materials had not yet been finalised;
- the proposal did not enhance the conservation area;
- if approved, the proposal would result in a loss of privacy as well as considerable loss of light;
- more importance had been given in the officer report to wildlife than to human life;
- there was a clear risk of subsidence if the proposal was approved;
- the issue of loss of privacy had been unfairly dismissed in the officer report;
- the proposed development was not in the interest of the community but in the interest of one family; and
- there were too many uncertainties around the project.

Mr Millon responded to Members' questions as follows:-

- if the application was approved, he would welcome a condition around the ground level not being risen;
- he was not opposed to the development of the site per se, only its size;

- the applicant had at no point attempted to make contact with him; and
- the area that both the boatyard and Quay Cottage were on was a piece of made-up land jutting out into the water and did not rest on anything. A survey would have to be made to ensure there would be no subsidence.

Miss Holly Trout, speaking in favour of the application, made the following comments:-

- the boatyard had been a family-run business for 123 years and currently employed nine people as well as apprentices;
- her business was a one-stop shop for all things related to boats;
- the business had managed Topsham Quay on behalf of Exeter City Council for 85 years;
- the boatyard was currently restricted by head height, which explained why neighbours could see large boats outside their properties. Approving the proposal would result in a more pleasant experience for neighbours;
- the proposal would improve safety;
- the white barge would be removed upon completion of the scheme;
- since the application was submitted, the applicant had made several amendments in response to feedback received; and
- Topsham was built on the river as a port area and her family was the last remaining link to its shipbuilding heritage.

Miss Trout responded to Members' questions as follows:-

- it was her family's intention to keep the land at the same level;
- work on boats would take place in enclosed spaces as much as possible;
- approval of the scheme would increase her company's environmental credentials;
- the company had piled throughout the outside aspect of the yard around 2010 and were confident about how it would work with this project;
- people often incorrectly thought of piling involving a violent jackhammer action when it was more similar to a drilling action;
- piling could even stabilise the ground further if carried out the way she envisaged;
- currently, the residential part of the site was rented out, usually to professionals;
- the provision of the Topsham Quay tender was in two-year blocks, so it was necessary for her family to supplement their income should they lose the contract;
- she did not have any information about any future tenancy;
- the residential unit would be larger;
- approval of the proposal would enable the company service boats they are currently unable to service and therefore to compete with e.g. Poole and Plymouth; and
- the last big renovation of the boatyard had taken place around the 1960s or 1970s.

During debate, Members expressed the following views:-

- while the concerns raised by residents were understandable, it was noted that the applicant was willing to carry out appropriate mitigations;
- it was important to support fundamental, local specialist business – especially in a sustainably managed way;
- the lack of dialogue between both parties was regrettable and the objector had legitimate reasons to fear the many uncertainties around the project;
- Members should remember that Topsham was made for boats, not cars;
- the narrowness of the pavements should be taken into consideration;

- could dialogue between both parties be conditioned?; and
- while mass and materials were legitimate concerns, materials could be conditioned and it should also be noted that the developer clearly listened to officers.

The recommendation was for approval subject to the conditions as set out in the report.

The Chair moved and Councillor Patrick seconded the recommendation, which was voted upon and CARRIED unanimously.

RESOLVED that the application for redevelopment of an existing boat repair and maintenance storage shed with accommodation above be approved subject to the conditions as set out in the report.

5 **LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the Strategic Director for Place was noted.

6 **APPEALS REPORT**

The report of the Strategic Director for Place was noted.

(The meeting commenced at 5.31 pm and closed at 9.52 pm)

Chair