

PLANNING COMMITTEE

Monday 2 November 2009

Present:-

Councillor Mrs Henson (Chair)
Councillors D J Morrish, D Baldwin, P J Brock, Cole, Edwards, Martin, Mitchell, Newby,
Prowse, Shepherd, Taghdissian and Wadham

Also Present

Director Economy and Development, Head of Planning and Building Control, Head of Legal Services, Planning Technician (ID) and Member Services Officer (SJS)

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MINUTES

The minutes of the meetings held on 27 April 2009, 18 May 2009, 1 June 2009, 30 June 2009, 7 July 2009, 20 July 2009, 27 July 2009, 7 September 2009 and 1 October 2009 were taken as read and signed by the Chair as correct.

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DECLARATIONS OF INTEREST

Members declared the following personal interests:-

COUNCILLOR	MINUTE
Councillor Mitchell	138 (employee of the Royal Devon and Exeter NHS Foundation Trust)
Councillor Taghdissian	143 (Girlfriend works at the Royal Devon and Exeter site at Gladstone Road - 09/1072/03)

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PLANNING APPLICATION NO.09/1291/03 - 68A SHAKESPEARE ROAD, EXETER, EX2 6BU

Councillor Mitchell declared a personal interest as he is an employee of the Royal Devon and Exeter NHS Foundation Trust.

The Head of Planning and Building Control presented the application for the redevelopment to provide three detached buildings comprising 24 self-contained flats and associated sheds and a detached dwelling following demolition of 66 & 68 Shakespeare Road, provision of public footpath/cycleway connecting the site with Well Oak Park, cycle and bin storage, parking, vehicular and pedestrian access to highway and associated works at 68A Shakespeare Road, Exeter.

The Head of Planning and Building Control informed Members that the proposal would comprise of 24 flats being a mix of one and two bed units in three blocks arranged around a communal central space. The blocks ranged in height from two to three storeys. A foot/cycle path would run through the middle of the site and the central open space. The dwellings would be occupied by the over 55's and would be designed to level 4 of the Code for Sustainable Homes.

He outlined the relationship of the development to the surrounding dwellings and stated that the distance to the nearest property in Well Oak Park from Block 3 was a minimum separation distance of about 25 metres. The application site was also at a lower level than the properties in Well Oak Park, and there was a significant tree

screen along this boundary. Given the density of this tree screen and in the interests of the long term health of the trees, 23 trees would be removed within this area.

The Head of Planning and Building Control updated Members on the issue of the provision of a foot/cycle path linking Shakespeare Road with the Wyvern site, and enabling a direct route to Dryden Road. The desirability of such a route was recognised in the consideration of applications to redevelop part of the former Wyvern Barracks site since 2004 when the Section 106 agreement associated with the approval of the housing secured a developer contribution towards the provision of such a link. The Police Architectural Liaison Officer had responded to a consultation on this current application by re-iterating that from the perspective of preventing crime and Anti Social Behaviour, and reducing the fear of crime the Police's preference would be for no link to be provided. However, notwithstanding a preference for a link not to be provided, the Police Architectural Liaison Officer suggested that a route leading in to Well Oak Park with the Masterson Street link closed would represent a compromise that would minimise potential impact on local residents.

Members were circulated with an update sheet giving details of a letter from the Wyvern Park Residents Association, a further letter of objection; details of a bat survey; comments from the County Director of Environment, Economy and Culture; details of further correspondence from the Police Architectural Liaison Officer and the Council's response.

The recommendation was for approval with a further recommendation that the Council undertake the works in the open space, including providing a three metre wide path between the site and Well Oak Park, securely closing off the access to Masterson Street, lighting, landscape and CCTV to be funded from Section 106 money and Housing and Planning Delivery Grant or a request to Executive to alter the capital programme, conditions as per the report and two additional conditions relating to the protection of bats.

Councillor Robson, having given notice under Standing Order No.44, spoke on this item. She raised the following points:-

- there was a desperate need for affordable housing in Exeter
- the dwellings would be for down sizing and free up larger homes for families
- site was close to the hospital and hospice which would enable residents to easily access these facilities
- the path would provide a quick link through from Shakespeare Road to Dryden Road
- the footpath could be used by wheelchairs users and could be used by residents that work at the hospital
- for years there had been an unofficial path through to Dryden Road
- it had been known that there would be a footpath from Shakespeare Road to Dryden Road well before Wyvern Park was built;
- the developer of Wyvern Park had entered into a Section 106 to provide £24,000 towards a footpath
- had sympathy for the residents of Wyvern Park as they had brought their properties not realising that there was provision for a footpath
- there was a need for this footpath provision.

Councillor Sheldon, having given notice under Standing Order No.44, spoke on this item. He raised the following points:-

- representing residents from Shakespeare Road
- this footpath had been a provision of the Wyvern Park planning approval

- the path would enhance Green Travel by encouraging walking and cycling
- would help a large number of people who walked to and from the hospital and Heavitree
- did have concerns that people could still use the Masterson Street link and this could cause problems as it would not be lit.

Councillor Shiel, having given notice under Standing Order No.44, spoke on this item. He raised the following points:-

- had been asked to represent 'unrepresented' local residents
- was not against the development of the flats
- there had been many representations against the proposed footpath including petitions
- asked the Committee to give the footpath its full consideration
- the Police supported local residents in their views that the path would lead to anti social behaviour, increase in crime and disorder and increase in noise
- the flats should be approved without the provision for the footpath
- the proposed footpath would affect the quality of life of the residents of Well Oak Park and Wyvern Park
- there should be alternative route for the path perhaps around the Barracks
- once the decision had been made it could not be undone.

Mr Bath spoke in opposition to the design of the proposal. He raised the following points:-

- represented owners with properties on the northern boundary
- had issues with aspects of the siting and design of Block 3
- Block 3 breached local planning guidance in respect of ridge and eaves heights, massing, space separation and trees
- overshadowing would be an issue for existing residents and new tenants as the new kitchens would only be 20.5 metres away from the rear elevation of his and neighbouring properties: ridge and eaves height would be significantly higher than the adjacent properties
- Block 3 footprint could be moved south by about 6 to 10 metres and there was a strong case to reduce Block 3 by half a storey
- the destruction of the tree corridor was contrary to Council guidance and it provided a significant wildlife corridor; there was no consultation on this extensive tree removal.

Mr Corcoran (representing residents on Well Oak Park) spoke in opposition to the footpath. He raised the following points:-

- 94% of the residents of Well Oak Park objected to the proposed footpath
- when there was a route through from Shakespeare Road previously, there was an increase in anti social behaviour in Well Oak Park and Wyvern Park
- the crime and disorder figures were inaccurate for the area
- there was now a 'Section 30' dispersal order in place in the Burnthouse Lane area
- the proposed footpath would cause noise disturbance with yobbish behaviour
- by applying provisions of Section 17 of the Crime and Disorder Act 1998, if the Committee decided to proceed with the footpath against the recommendation of the Police, it would have arrived at a wrong balance between permeability and crime
- to proceed with the footpath would be against the aim of the Community Safety Partnership that Exeter should be the Safest City in the South West
- would be contrary to the Home Officer paper regarding anticipating the impact of Section 17 of the Crime and Disorder Act

- should defer the decision on the footpath
- had taken legal advice as to other options open to the Police and local residents should the footpath be approved.

Miss Jenkins spoke in support of the footpath. She raised the following points:-

- understood the concerns of the residents of Well Oak Park and Wyvern Park; but you could not judge everyone in the Shakespeare Road/Burnthouse Lane estate by the actions of a few
- vast majority of residents were hard working
- the footpath would be used by residents going to and from work, peacefully and quietly
- would reduce the time it took to get to and from work at the hospital which would be welcomed after a 12 hour shift
- the proposed CCTV, lighting and opening up of the path would prevent misuse of the path
- people should not be discriminated against because of where they live
- was speaking on behalf of those residents who wanted the footpath.

The Head of Planning and Building Control stated that the distance between 18, 20 and 22 Well Oak Park and Block 3 was 25 metres. The distance of 20.5 metres between Block 3 quoted by Mr Bath might be to a conservatory at no.18 Well Oak Park. Because of the difference in ground levels, Block 3 would be seen as no more than a two storey building from 18, 20 and 22 Well Oak Park. 23 trees would be removed along the boundary with Well Oak Park although a large number of trees would remain. The Ministry of Defence had been approached regarding a possible footpath across their land but they had stated that they would not make land available.

During discussion, Members raised the following points:-

- out of all the 60 letters only two had been from residents in Shakespeare Road
- concerned that the Police Architectural Liaison Officer objected to the footpath
- the crime figures for Shakespeare Road/Burnthouse House Lane were no higher than any other area of the City
- the installation of the CCTV and lighting provided a good compromise to the provision of the footpath
- quality of life should refer to all residents not just those on Well Oak Park and Wyvern Park
- should not put barriers up between communities within the city
- was not the Committee's responsibility to be social engineers.

In response to Members' questions, the Head of Planning and Building Control clarified the position of the bins storage. Section 17 of the Crime and Disorder Act had been raised at the previous meetings in 2008, but he doubted that it had been considered when the original applications were approved.

RESOLVED that planning permission for the redevelopment to provide three detached buildings comprising 24 self-contained flats and associated sheds, detached dwelling following demolition of 66 & 68 Shakespeare Road, provision of public foot/cycle path connecting site with Well Oak Park, cycle and bin storage, parking, vehicular and pedestrian access to highway and associated works be **approved** subject to a Section 106 agreement on the provision of affordable housing, the construction of the foot/cycle path to the site boundary and its offering for adoption. It was also **resolved** that the Council undertake works in the open space, including providing a three metre wide path between the site and Well Oak

Park, lighting, landscape, CCTV, and securely closing off the access to Masterson Street funded from the Section 106 monies and Housing and Planning Delivery Grant or a request to Executive to alter the capital programme and the following conditions:-

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) C12 - Drainage Details
- 4) C17 - Submission of Materials
- 5) C23 - Permitted Development Restriction
- 6) C35 - Landscape Scheme
- 7) C37 - Replacement Planting
- 8) C55 - Construction of Roads Before Occupation
- 9) C70 - Contaminated Land
- 10) C72 - Highway - Estate Roads etc
- 11) H02 - Highways - Provision parking, etc
- 12) No construction work in connection with the development hereby approved shall take place outside the hours of 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 the residential amenities of the occupants of surrounding properties.
- 13) The stripping of the roofing slates and soffit boxes of the existing building shall only be carried out under the supervision of a licensed bat ecologist, and not during the bat breeding season (April to August). In the event of any bats being found to be present the advice of the attending ecologist shall be followed with regard to how works can and should proceed to protect the bats. The attending ecologist shall subsequently certify in writing to the Local Planning Authority that the works were appropriately supervised, and any remedial measures necessary implemented.
Reason: In the interests of the protection of any bats that might be present in the building.
- 14) Prior to the commencement of the development details of the type and location of 3 bat boxes to be installed within the proposed development, along with the time frame for their installation, and an on-going maintenance programme, shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the approved bat boxes shall be permanently retained in situ and be maintained in accordance with the agreed maintenance details unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure that the scheme makes appropriate provision for the enhancement of biodiversity opportunities within the site.

(Report circulated)

**PLANNING APPLICATION NO.09/1427/16 - LAND TO THE REAR OF 87-97
MERLIN CRESCENT, EXETER, EX4 9AF**

The Head of Planning and Building Control presented the application for the redevelopment to provide two, two and a half storey buildings comprising 18 self contained flats, parking, alterations to vehicular and pedestrian access, cycle stores, sheds and associated works at land to the rear of 87-97 Merlin Crescent, Exeter.

This planning application would seek to demolish largely unused garages and construct two blocks of flats. Ten parking spaces were proposed at the eastern end of the site, including one disabled space. The proposed buildings were contemporary in style, with pitched roofs. They would be faced with render, timber cladding and plain clay roof tiles. All units would be affordable housing and achieve a minimum of Level 4 of the Code for Sustainable Homes. It was proposed to encourage people over 55, whose resident families had reduced in size, to exchange their larger houses for the flats.

The recommendation was for approval subject to the completion of a legal agreement or other appropriate arrangement to secure the provision of 25 % of the units as affordable in perpetuity and the conditions as per the report.

The Local Ward Councillor stated that although there had been a public meeting where local residents had raised objections, only two objectors had made written representations on the planning application raising issues of the loss of visual amenity, play space and parking. However, he welcomed this development and he considered that Beacon Health would benefit from this proposal enabling people to down size and stay in the same area.

Members welcomed this proposal for affordable housing.

RESOLVED that planning permission for the redevelopment to provide two, two and a half storey buildings comprising 18 self contained flats, parking, alterations to vehicular and pedestrian access, cycle stores, sheds and associated works be **approved** subject to the completion of a legal agreement or other appropriate arrangement to secure the provision of 25 % of the units as affordable in perpetuity and the following conditions:-

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) C17 - Submission of Materials
- 4) C34 - Landscape Scheme - Outline
- 5) C35 - Landscape Scheme
- 6) C70 - Contaminated Land
- 7) Construction 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.
- 8) Prior to the commencement of the development, details of all external plant/machinery (such as associated with exhaust air heat pumps) including

sound power levels, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of local amenity.

- 9) No part of the development hereby approved shall be occupied until the on-site parking facilities and any means of access have been provided in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for those purposes at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

- 10) The proposed estate road, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans, sections and structural calculations indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that adequate information is available for the consideration of the detailed proposals.

- 11) C36 - No Trees to be Felled

- 12) C38 - Trees - Temporary Fencing

- 13) No development shall begin until a scheme for generating a proportion of the energy requirement of the development from on-site renewable sources which reduce the predicted CO2 emissions by 10 per cent (or other proportion as agreed in writing), has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall thereafter be maintained so that it provides the required level of generation.

Reason: In the interests of sustainable development.

In the event that the section 106 agreement is not completed within 6 months of the date of this committee meeting, authority be delegated to the Head of Planning and Building Control to refuse permission for the reason that inadequate provision has been made for the matters which were intended to be dealt with in the section 106 agreement.

(Report circulated)

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PLANNING APPLICATION NO.09/1425/16 - LAND TO WEST OF 5 THE OLD COOPERAGE, SIVELL PLACE, EXETER, EX2 5EN

The Head of Planning and Building Control presented the planning application for a development to provide one/one and a half storey building containing three self contained flats, vehicular access, parking, sheds and associated works at land to west of 5 The Old Cooperage, Sivell Place, Exeter.

Members were informed that the upper floor was partially within the roof space with dormer windows, and dropped down to single storey at the eastern end where it was close to the Old Cooperage (Mortuary). There was one, 2 bedroom flat and two 1 bedroom flats, each with an independent entrance.

The site was situated within the Heavitree Conservation Area and at present was used for unofficial parking by some of the local residents, and for display of vehicles for sale by the nearby garage. There was a brick wall of varying height up to 3 metres along the southern site boundary. The building would be faced with render and light grey plain clay tiles. All units would be affordable housing and had been designed to achieve a minimum of Level 4 of the Code for Sustainable Homes. It was proposed to use the units to encourage down sizing.

One further letter of objection had been received which raised no new issues to those covered in the report.

The recommendation was for approval to be delegated to the Head of Planning and Building Control subject to the receipt and consideration of any new and substantive objections received prior to the expiry of the consultation period (2 November 2009), and the conditions as per the report.

Councillor Gale, having given notice under Standing Order No.44, spoke on this item. He raised the following points:-

- was the Local Ward Councillor
- was pleased that this proposal would encourage down sizing
- main concern was the over looking of properties to the rear in Kingsway from the first floor windows
- could the design be slightly changed to avoid overlooking.

Mr Spencer spoke in opposition to the application. He circulated a photograph and drawing to Committee Members. He raised the following points:-

- lived at 68 Kingsway, was also representing residents at 66 and 70 Kingsway
- the windows on the first floor were clear glass opening windows and would look directly into his property's bedroom windows causing an overlooking issue
- bungalows would be more appropriate on this site
- loss of trees would cause noise pollution
- the development would cause loss of parking
- there was only 21.5 metres between the windows on the proposal and his first floor windows.

The Head of Planning and Building Control stated that the relationship between the first floor windows was acceptable as there was limited visibility and would be mitigated as the rooms to the rear of the proposal were a bathroom, kitchen and dining area.

During discussion, some Members had concerns regarding the possible over looking from the windows on the first floor and asked if the design could be amended to alleviate the situation.

The Head of Planning and Building Control stated that he did not believe that it was possible to change the design of the proposal.

RESOLVED that planning permission for the development to provide one/one and a half storey building containing 3 self contained flats, vehicular access, parking, sheds and associated works be **approved** subject to the receipt and consideration of any new and substantive objections received prior to the expiry of the consultation period (2 November 2009), and the following conditions:-

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) C17 - Submission of Materials
- 4) C34 - Landscape Scheme - Outline
- 5) C35 - Landscape Scheme
- 6) C70 - Contaminated Land
- 7) Construction 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.
- 8) Prior to the commencement of the development, details of all external plant/machinery (such as associated with exhaust air heat pumps) including sound power levels, shall be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of local amenity.
- 9) No part of the development hereby approved shall be occupied until the access, off-street parking facilities and frontage footway to Sivell Place have been provided in accordance with construction details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for those purposes at all times.
Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

(Report circulated)

141

**TREE PRESERVATION ORDER NO. 604 (CHURCH OF ST. PAUL,
BURNTHOUSE LANE, EXETER) 2009**

The Head of Planning and Building Control presented the report that gave details of an objection that had been received by the Council to Exeter City Council Tree Preservation Order No. 604 (Church of St Paul, Burnthouse Lane, Exeter) 2009.

This Tree Preservation Order (TPO) was an area order to protect three trees, a Robinia, Field Maple and Cherry tree. The Field Maple and Cherry trees had a limited life span and were category C trees.

Michael McMillan spoke objecting to Tree Preservation Order No. 604. He raised the following points:-

- was representing the developer of the site; pre application discussions were taking place regarding a development of 24 social housing unit on the site and a Church Community Hall
- the Field Maple and Cherry Tree were barely visible from the road and their inclusion in this TPO could not be justified.

In response to a Member's question, the Head of Planning and Building Control stated that it was recognised that should the Field Maple and Cherry trees constrain any proposals then an application could be made to remove them but, by placing a TPO on the trees the Council could request replacement trees should they be removed.

RESOLVED that the order be confirmed without modification.

(Report circulated)

142 **TREE PRESERVATION ORDER NO. 606 (5 ST. LEONARDS ROAD, EXETER) 2009**

The Head of Planning and Building Control presented the report giving details of an objection that had been received by the Council to Exeter City Council Tree Preservation Order No. 606 (5 St. Leonards Road, Exeter) 2009.

Members were circulated with an update sheet giving details of the objection from the owners of 5 St Leonards Road and the Council's response.

RESOLVED that the order be confirmed without modification.

(Report circulated)

143 **PLANNING DECISIONS TAKEN UNDER DELEGATED POWERS AND WITHDRAWN APPLICATIONS**

Councillor Taghdissian declared a personal interest as his girlfriend works at the Royal Devon and Exeter site at Gladstone Road (09/1072/03).

The report of the Head of Planning and Building Control was submitted.

RESOLVED that the report be noted.

(Report circulated)

144 **ENFORCEMENT PROGRESS REPORT**

The Head of Planning and Building Control presented the report updating Members on enforcement matters.

Members were informed that the two appeals on 65 Kingsway and the appeal for the Jumbrella at 5-9 The Quay had been allowed, and the appeal at 12 Guildhall Shopping Centre had been dismissed.

RESOLVED that the report be noted.

(Report circulated)

145 **APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

RESOLVED that the report be noted.

(Report circulated)

146 **AREA WORKING PARTIES**

AGREED that Councillor Cole would replace Councillor Newton on the Western Area Working Party.

SITE INSPECTION PARTY

RESOLVED that the next Site Inspection Party will be held on Tuesday 24 November 2009 at 9.30 a.m. The Councillors attending will be P J Brock, D J Morrish and Shepherd.

(The meeting commenced at 5.30 pm and closed at 8.10 pm)

Chair