

ITEM NO.

8

COMMITTEE DATE:

16/01/2012

APPLICATION NO:

11/1533/03

VARIATION OF CONDITION

APPLICANT:

Mr Dawson
CPG South Ltd

PROPOSAL:

Variation of condition 2 to allow minor alterations to the elevations of the approved building and condition 8 to allow the first floor to be used for retail / restaurant / cafe purposes (Ref: 09/2050/03 granted 23/02/2010)

LOCATION:

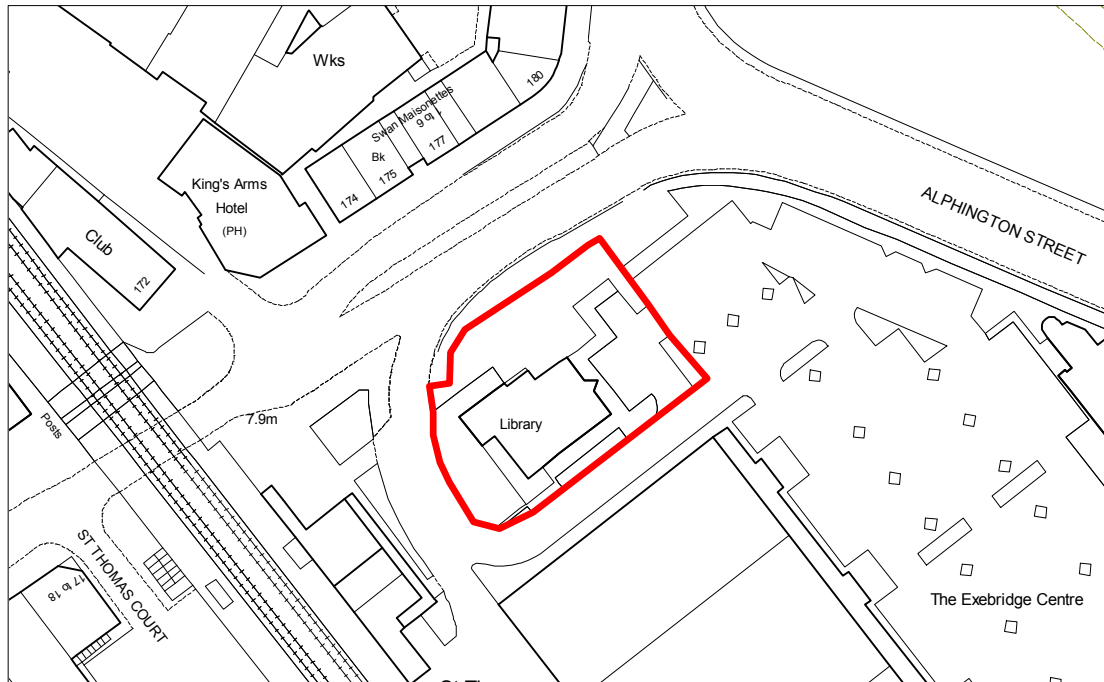
The Exebridge Centre, Cowick Street, Exeter, EX4 1AH

REGISTRATION DATE:

22/09/2011

EXPIRY DATE:

17/11/2011



Scale 1:1250

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UPDATE FROM PLANNING COMMITTEE DATED 5 DECEMBER 2011

This application was deferred from the previous Planning Committee. Members requested additional comment from Devon County Council regarding the background to discussions held between the developer and the County Council in respect of library provision within the Exebridges building. In response to this The Head of Planning Services set out a series of questions to the Head of Library Services and received the following responses on 20 December -

What was the County Council's approach to negotiations with the developer of the Exebridges Retail Park? - *I can confirm that we had a series of discussions with the then developer of the Exebridges Retail Park. The developer's terms for the site showed no sign of decreasing as negotiations continued; in fact, at one stage, they increased quite considerably.*

Please confirm Devon County Council's plans for a temporary library in Church Road.

- *It may be helpful to understand that, as part of a previous long-standing agreement with the owner of the site, the County Council had not paid any lease costs for the library on the Exebridges site for 11 years. At a time of severe financial constraint, which has impacted on*

all libraries across the county through reduced staffing and opening hours, it was difficult, as I'm sure you will appreciate, for the County Council to countenance paying the lease costs offered by the developer. With no prospect of favourable negotiations in sight, the County Council had no option but to withdraw from the negotiations and seek alternative interim provision in the West Exe area. The County Council feels it did its best to negotiate a reasonable lease.

I can confirm that we plan to open an interim library facility in Church Road on 6th February 2012. I can also confirm that we have taken a 3 year lease on the building. Once in the interim accommodation, we will continue our assessment of available sites in the West Exe area for a permanent library for the community without the time pressures faced following the breakdown of negotiations with the developer of the Exebridges Retail Park. The County Council has no plans to withdraw its permanent library provision in the West Exe area. Any decision regarding a permanent library will involve appropriate public consultation to ensure the facility meets the identified needs of the local community.

Please confirm the County Council's plans to retain a permanent library in St Thomas -
The County Council remains committed to providing a public library service in the area.

Could another group provide a library in the Exebridge building? - *The question as to whether or not an alternative organisation or group could provide a library in the area is largely irrelevant. In abstract terms, it may be possible for this to happen but it would require very significant community involvement and fundraising to enable this to happen.*

In light of the County's clear commitment to provision of a library in St. Thomas at a location other than that subject to this application and their comments in respect of an alternative provider it is reiterated that there are no grounds upon which to oppose the current application.

HISTORY OF SITE

Planning permission was granted in October 1999 (ref 99/0105/03) for the redevelopment of the former Sainsbury retail store and replacement with a mixed use development for retail units (Class A1), a restaurant (Class A3) and highway improvement works.

An application for the change of use of the existing library building to a retail unit (ref 09/1248/03) was refused in February 2010 on the grounds of the loss of a community facility and unresolved highway and public realm issues.

In April 2010 planning permission was granted for retail units on ground floor and a library at first floor. (ref 09/2050/03).

In October 2010, two further applications were approved. One application (10/1345/03) approved the variation of conditions to enable a phased development of the original scheme which allowed the car parking and highway works to be carried out prior to the redevelopment of the retail/library building and allowed the subdivision of the retail units. The second application (10/1333/03) approved the changes to the external appearance of the retail units by the introduction of additional entrance doors.

DESCRIPTION OF SITE/PROPOSAL

The series of permissions which have been granted for this site since its initial approval for the demolition and replacement of a new building in 2010 allows the ground floor for use as either retail (Class A1) or restaurant use (Class A3) and for it to be set out as one single unit or as a number of smaller units. The current permission requires the first floor of the new building to be used only as a library. This application seeks approval for the use of the first floor for either retail or restaurant purposes.

Condition 8 of the planning approval 09/2050/03 specifically required the first floor to be used as a library and associated functions and therefore would need to be varied to enable the applicant's intentions for this area to be used for retail or restaurant use to be realised. Condition 2 of the original approval dealt with detailed plans and accordingly the removal of the library function required changes to the building's layout and elevational appearance. Consequently the permission requires the variation of both condition 2 and 8 to enable the change from library to retail/restaurant use on the first floor to occur.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

A Planning Statement has been submitted by the applicant's agents. The main points are :-

The application site lies within the defined boundary for St Thomas District Centre in the Local Plan and therefore it is an appropriate location for all Class A uses. Indeed the principal has already been established through the previous permissions on the site.

Exeter Local Plan Policy S5 states that Class A3 Uses will be permitted provided that the proposal will not harm the amenity of nearby residents or increase the potential for crime and anti-social behaviour. The application site is located on a retail park, away from residential properties so there is no reason to believe that any impact on residential amenity will arise as a result of the proposed development.

With regard to crime and anti-social behaviour, this is understood to relate to late night takeaway uses (Class A5) which at the time the Local Plan was adopted, were included within Class A3. As such uses now have their own separate use class (Class A5), it is not considered that this element of the policy is relevant.

Policy S3 states that the changes of use of ground floor retail premises within the defined centres will not be permitted if there would be an impact on the viability and viability of the centre. The proposed development comprises new Class A floorspace on a retail park that forms part of the defined centre.

Devon County Library Services have already stated their intention to withdraw from the Exe Bridge Centre and seek alternative accommodation elsewhere and therefore the application will not result in the loss of a library.

Devon Structure Plan Policies ST1 and ST3 seeks to meet the social and cultural needs of local communities through the provision of appropriate facilities in sustainable locations. Importantly, the policies do not set out protection for existing facilities.

The Communities Services section of the Local Plan states in its introductory paragraph that one of the Plan's aims is to protect and enhance existing community facilities. However, while there are policies relating to the provision of new facilities, there is no policy which seeks to protect libraries. As such the proposed development is not contrary to any policy in the Exeter Local Plan.

Discussions between the Library Services and the landowner regarding the relocation of the library began in early 2009. The negotiations broke down in 2011 and despite an offer to re-open negotiations Devon County Library Services decided to seek alternative premises elsewhere. Consequently the owner has had to consider its plans for the first floor of the approved building. It is considered that the most appropriate way forward is to seek approval for the uses already permitted at ground floor level (Class A1 & A3) which are considered appropriate in this location.

REPRESENTATIONS

71 letters of objection. Principal planning issues raised:-

1. The applicant has misled the public through the submission of several applications;
2. Previous application refused as being contrary to Devon Structure Plan policies ST1 & ST3 and advice contained in Exeter Local Plan section on Community Services which are still applicable;
3. Loss of library as a local service will be a loss to the community as it is well used and will significantly affect the character of the locality;
4. Need to identify new replacement library before permission is granted;
5. Additional retail/restaurant use is not needed as there is already adequate in the area;
6. Concern that library removal will lead to a series of temporary locations;
7. Existing library location is in close proximity to shops and other services as well as good train and bus links therefore representing a sustainable location;
8. Alternative location for the St Thomas library could lead to more journeys being made by car;
9. Loss of library will be detrimental to existing retail uses in the area;
10. Additional retail/restaurant will result in more traffic to the area.

CONSULTATIONS

The Environment Agency comment that providing the development proceeds in accordance with the agreed Flood Risk Assessment there are no objections to the proposal.

The Executive Director of Environment, Economy and Culture comment that the detailed changes that are the reason for the variation of Condition 2 are not likely to have any significant effect on the highway and pedestrian circulation areas. The existing and agreed on-site facilities, access and circulation areas are considered suitable to accommodate the use of the first floor for retail/ restaurant/cafe purposes and for that reason the variation of Condition 8 is acceptable from a highway view.

The Head of Environmental Health comment that there are insufficient details of the kitchen air supply or extract systems and full details should be provided. It is accepted that without a specific tenant identified this may be difficult and therefore the submission of the details could be conditioned or a subsequent application for external flue/louvres should be made.

The Devon County Head of Services for Communities has commented on specific questions raised by the City Council in the respect of this application:-

The need for and intention to provide, a replacement library in Cowick -

The County Council is committed to maintaining a library service for use by residents of the West Exe area. After our negotiations with the developer of the Exe Bridges Retail Park broke down earlier this year, the County Council began to look for alternative temporary premises, to which we could relocate at the end of the lease on the current site. Whilst temporary accommodation has been identified at the old stationers shop on the corner of Cecil Road and Church Road the County Council will continue to explore options for a permanent facility in the area.

How suitable the approved first floor accommodation in the replacement building is to meet the library services needs -

Whilst the County state that the first floor location would not be ideal it would be adequate so long as an effective and reliable lift could be provided and an affordable rent could be secured. Since then negotiations with the developer have broken down as a result of an inability to agree an affordable rent for a library. Given that new negotiations would not necessarily result in a more attractive rent being agreed, it is considered that the proposed location of the library on the site to be largely irrelevant.

Any observations on whether it is merely contractual terms that form an impediment to reprovision of the library in the replacement building.

The location of any library provision is determined by a number of factors including; the availability of suitable public space at an affordable rate; the needs and location of the local community and the proximity of the site to other libraries in the area. It is considered that the first floor site at Exebridges is not ideal in terms of having a first floor location (although this could be mitigated by a lift and good signage). Whilst it is stated that the site is well located for the shopping areas of St Thomas it is not in the heart of where many of the St Thomas library customer's live which performance data shows that many live further into the West Exe area. In addition, the site is within a mile of Exeter Central Library, the largest and busiest library in the County.

The Head of Services for Communities concludes that, at the time of the previous planning application, the proposed first floor site was acceptable as a new library site. However given the failure to agree an acceptable rent with the developer, there is a need to look for a permanent site elsewhere. In considering site option over the coming months the three factors previously stated, along with community feedback, will determine the final location. 'Because of the financial considerations, we (the County Council) will not now be considering the Exebridges Retail Park as one of the potential sites'.

PLANNING POLICIES/POLICY GUIDANCE

Devon County Structure Plan 2001-2016

ST1 - Sustainable Development
ST3 - Self Sufficiency of Devon's Communities
CO6 - Quality of New Development

Exeter Local Plan First Review 1995-2011

AP1 - Design and Location of Development
DG1 - Objectives of Urban Design
DG3 - Commercial Development
T3 - Encouraging Use of Sustainable Modes
S5 - Food and Drink

OBSERVATIONS

The original application (ref 09/1248/03) was refused in February 2010 on the basis that the loss of the existing library facility would result in the loss of a facility needed to support the community needs and provide a focus for community life. The Exeter Local Plan does identify libraries as one of a wide array of activities which serve community needs and provide a focus for community life. In addition, the Devon Structure Plan, Policies ST1 and ST3 seeks to ensure, in broad terms, that sustainable development objectives are met in respect of '*social and cultural needs, in terms of their range and scale - provided for in locations most accessible to those who need to use them*' and provide '*...a range of local services, and a mix of compatible uses in order to maximise accessibility and reduce the extent of travel*'. These Development Plan policies are still relevant and represent a material consideration against which this application which once again seeks the removal of a library service in this location should be assessed.

It is, however, relevant to acknowledge that the provision and management of the library services in Exeter is regulated by Devon County Council. At the time the initial application was considered (ref 09/1248/03) the County Library Department stated that there is a strong need for a library building in this location and wished to retain a library presence on the Exe Bridges Retail Park and therefore strongly opposed the planning application. These concerns were, in part, allayed when the application for the redevelopment of the site was approved (ref 09/2050/03) as it included the provision of a library use albeit at first floor level within the replacement building. The County Library Department commented at this time that they

considered that the revised plans more appropriately reflect the requirements of the library services needs, given that the first floor presence would likely to be considerably more affordable and sustainable in terms of a lease. In addition, it was considered that space would be much larger than the current library and therefore would offer the potential to expand and extend the range of services on offer.

It is clear from the most recent correspondence submitted by Devon County Council Library Services that the matter of library provision within St Thomas has been given considerable attention. However their conclusion states that '*...given the failure to agree an acceptable rent with the developer, there is a need to look for a permanent site elsewherebecause of the financial considerations we will not now be considering the Exe Bridge Retail Park as one of the potential sites*'. The key factor in the assessment of the application is whilst the planning powers of the City Council can ensure space is provided for a particular use, it has no power to insist that it is occupied for this purpose. Consequently without the specific support of the library service provider, it would be difficult to justify the refusal of the application, as there is no guarantee that this use would be re-established in this location.

It is therefore necessary to consider the merit of the application against other development plan policies. The proposal is for retail or restaurant use on the first floor of the replacement building. The site is located in the St Thomas District Centre and is therefore appropriate for A use classes provided that they do not harm the amenities of nearby residents or increase the potential for crime and anti social behaviour. It is therefore considered that the proposal for the change of use of the first floor from a library to either retail or restaurant is consistent with the Local Plan and appropriate in this location. Indeed given the fact that planning permission has previously been granted for the ground floor of the building for these uses means that it would be difficult to take a contrary view.

The proposal changes to the elevational treatment also requested as part of this application are considered acceptable and accordingly approval is recommended.

WESTERN AREA WORKING PARTY

Officers advised that a letter had been received from Devon County Library Services which stated that they were no longer looking to establish a library at this site. Members acknowledged that in planning policy terms it would be difficult to refuse a proposal for a retail/restaurant use given their comments.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1) 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 13 September 2011 (dwg. nos.0900 00203 A, 1094/GA/10 rev D, 8672/20, 8672/21 and 8672/22) as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 2) The first floor of the approved building shall be used for any purpose within Use Classes A1 (Retail) and A3 (Cafes and Restaurants).
Reason: To accord with the uses appropriate with the St Thomas District Centre.

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