

PLANNING COMMITTEE

Monday 30 January 2012

Present:

Councillor Bialyk (Chair)
Councillors Macdonald, P J Brock, Clark, Denham, Edwards, Mrs Henson, Mrs Morrish, Spackman and Winterbottom

Apologies:

Councillors Prowse and Sutton

Also Present:

Head of Planning and Building Control, Development Manager, Planning Solicitor and Member Services Officer (HB)

14

DECLARATIONS OF INTEREST

Members declared the following personal interests:-

COUNCILLOR	MINUTE
Councillor PJ Brock, Mrs Henson and Winterbottom	17 (know the objector)

15

PLANNING APPLICATION NO. 11/1748/03 - FORMER A H MODA, 4-5 ROMAN WALK, EXETER

The Development Manager presented the planning application for change of use from retail to coffee shop with provision of outdoor seating area at the former A H Moda, 4-5 Roman Walk, Exeter.

The proposed use had commenced two weeks ago and the Environmental Health Officer had visited some of the residential premises above the coffee shop and had not identified any problems with regard to noise from the air conditioning unit/extraction equipment. An additional condition was recommended requiring the installation of a timer for the equipment to be shut down when the premises close for daily business.

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

Mr Thompson spoke against the application. He raised the following points:-

- speaking on behalf of residents many of whom are elderly and infirm
- emphasised the negative impact on residential amenity of secondary smoking which had been proved to be a primary cause of lung cancer. Groups of people will congregate at tables and smoke immediately below the open balconies of Trinity residents. Smoking bans are now being imposed in public places. Members of the public can remove themselves from secondary smoking areas, the residents of Trinity Apartments can not.

Many of the residents are elderly and infirm and may be particularly susceptible to secondary smoking

- permitting trading from 0900 hours to 1800hours is not considered to fall within the definition of 'normal Sunday shopping hours' or to be in keeping with what Coffee No 1's own website refers to, as 'a peaceful position on the Roman Walk'
- no outside tables should be permitted before 10.00hours
- to minimise impact of secondary smoking, no outside tables should be permitted in the winter period
- this is the most historically significant site in Princesshay
- many of the aged and infirm residents have no knowledge of planning procedures and have gained no succour from either the landlord or the contractors
- seepage of fumes into one apartment has occurred during re-fitting works
- residents will experience constant noise and probably fumes from air - conditioning or extraction equipment
- there will be problems of restricted access, noise and litter
- the refusal of planning permission is requested or, deferral, pending an assessment of the impact of secondary smoking and Environmental Health Officers confirming that noise levels from the air conditioning units are acceptable, particularly at night
- if mindful to approve the change of use request Sunday trading hours should be restricted to between 1000 hours and 1600 hours and the outdoor seating provision should either be refused or restrictions imposed to ban smoking at all outside tables. Outside tables not to be permitted before 1000 hours on any day and no outside tables to be permitted during the winter period

Mr Morison (agent) spoke in support of the application. He raised the following points:-

- Coffee No 1 had been trading for two weeks with over 400 customers a day with an associated increase in footfall along this part of Princesshay, thus benefiting the City Centre in general
- the transfer of use from A1 to A1/A3 meets the criteria of the overall A3 designation for the Princesshay Shopping Centre
- outdoor tables have been removed away from the Roman Wall as requested
- following consultation with Environmental Health Officers a noise consultant had been engaged and appropriate measures taken in respect of extraction equipment and air conditioning by means of the fitting of a timer
- after the previous Planning Committee meeting on 16 January a letter was sent to all Trinity Apartment residents to advise of action taken and with an offer to speak separately with them. The residents had been advised of the report of the noise consultant which had been made available to them with one resident having taken up this offer
- the operators were prepared to make the entire establishment, including the outside seating area, non smoking

Members welcomed the decision to make Coffee 1 entirely non smoking. They discussed the opening hours and whether to seek the introduction of a demarcated area for the outdoor tables whether by studs or rope and bollards. They did not support demarcation but supported the opening hours for the outdoor seating area as set out in the report apart from the Sunday opening hours which it was felt should be 1000 hours and not 0900 hours.

RESOLVED that the application for change of use from retail to coffee shop with provision of outdoor seating area be **approved**, subject to the following conditions:

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) The outdoor seating area hereby approved shall be used solely as additional accommodation ancillary to 4 to 5 Roman Walk and for no other purpose.
Reason: To control the character, and to minimise the volume, of service traffic, in the interests of public safety.
- 4) The pavement cafe area hereby approved shall be maintained free of enclosures such as chains, bollards or barriers or any object that may introduce a hazard.
Reason: In the interests of public safety.
- 5) Before the external seating areas are first brought into use a scheme for the management of these areas shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the setting out and putting away of furniture. The outdoor seating areas shall subsequently be managed in accordance with that agreement.
Reason: To protect the reasonable living conditions of occupiers of nearby residential properties and in the interests of public safety.
- 6) No external plant or machinery shall be installed on site without the prior approval of the Local Planning Authority.
Reason: In the interest of local amenity.
- 7) The outdoor seating area shall only be used between the hours 0800 and 1800 hours Monday to Friday, 0900 and 1800 on Saturday and 1000 and 1800 on Sunday. The tables and chairs and other items of furniture related to the outside seating area shall be removed from the area at all other times.
Reason: To safeguard the living conditions of occupiers of residential properties above and in the interests of public safety.
- 8) Details of umbrellas, chairs, tables and any other items to be placed within the outdoor seating areas hereby approved shall be submitted to and approved in writing by the Local Planning Authority before being installed on site.
Reason: Insufficient information has been submitted with the application and in the interests of visual amenity.
- 9) The air conditioning plant shall operate on a timer system to ensure that the approved units switch off automatically when the premises is closed. The details of the timer system shall be agreed in writing by the Local Planning Authority and shall remain operational at all times thereafter.
Reason: To safeguard the living conditions of occupiers of residential properties above.
- 10) The outside seating area shall be designated and operated solely as a non smoking area.
Reason: To safeguard the living conditions of occupiers of residential properties above.

(Report circulated)

**PLANNING APPLICATION NO. 11/1582/03 - FORMER GUIDE DOGS FOR THE
BLIND KENNELS, EXWICK LANE, EXETER, EX4 2AR**

The Development Manager presented the application for residential development consisting of ten detached dwellings, associated parking, garages and access at the former Guide Dogs For The Blind Kennels, Exwick Lane, Exeter.

The recommendation was for approval subject to a Section 106 Agreement requiring a financial contribution towards education (£18,010), traffic orders (£1,500) and Natura 2000 (£3,500) and the conditions as set out in the report.

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

- oppose the application as will set a precedent and open the floodgates for further development in this area
- with the introduction of bollards to the north of the application site resulting in this section of Exwick Lane being effectively car free, the alignment of the remainder of the Lane still presents dangerous walking conditions for parents and children which will be exacerbated with additional traffic generated by a housing development
- this area is lacking in community facilities and infrastructure and these problems will be exacerbated with further development

Ms Donnelly (agent) spoke in support of the application. She raised the following points:-

- speaking on behalf of the Guide Dogs for the Blind
- the site has been unoccupied for some 10 years at considerable expense to the organisation in terms of management, insurance, security and repairs to vandalised property
- the Charities Act requires the organisation to obtain best value for its assets
- the organisation already has an office in Exeter serving the wider Devon area and has plans to expand which will be made possible by realising the value of this site. Its future plans are to work in conjunction with partners such as other organisations serving the blind, the deaf, SENSE etc and ultimately plan to move to larger premises
- the proposal for residential development is a fall back position as it is hoped to conclude consultations with Devon County Council who are seeking to purchase the site for educational purposes.

Members noted that an application for the development of the site had been refused in September 2004 and an appeal dismissed on the grounds that the proposal would be harmful to the landscape. They noted that the construction of the school building had diminished the landscape value of the area and the application site would now represent a rounding off of the built up area in this location. The development of this brownfield site for housing purposes would help meet housing requirements for the City. Because negotiations between the Guide Dogs for the Blind and Devon County Council were continuing as the County viewed the site as an opportunity to expand the neighbouring Exwick Heights School it was suggested that the application should be deferred until the outcome of the negotiations were known. This proposal was not supported.

RESOLVED that planning permission for residential development consisting of ten detached dwellings, associated parking, garages and access be **approved** subject to the completion of a Section 106 Agreement requiring a financial contribution to education (£18,010), traffic orders (£1,500) and Natura 2000 (£3,500) and the following conditions:

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) C17 - Submission of Materials
- 4) C35 - Landscape Scheme
- 5) C37 - Replacement Planting
- 6) C43E - Retain Hedges
- 7) C70 - Contaminated Land
- 8) C57 - Archaeological Recording
- 9) No other part of the development hereby approved shall be commenced until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for the construction period.
Reason: To ensure that adequate facilities are available for the traffic attracted to the site during the construction period.
- 10) 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 interest of residential amenity.
- 11) Notwithstanding condition no 2, no work shall commence on site under this permission until full details of the following, as it relates to the office or residential building, have been submitted to and approved in writing by the Local Planning Authority and the following shall thereafter be provided in accordance with such details:
 - a) windows to include materials, means of opening, reveals, cills and headers;
 - b) external doors;
 - c) rainwater goods;
 - d) lighting;
 - e) treatment of boundaries;**Reason:** Insufficient information has been submitted with the application and in the interests of visual amenity.
- 12) No part of the development hereby approved shall be brought into its intended use and/or occupied until the on-site cycle and operational vehicle parking facilities have been provided, surfaced and marked out in accordance with the requirements of this permission and retained for those purposes at all times.
Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

- 13) Visibility splays shall be provided, laid out and maintained for that purpose at the southern site access to Exwick Lane, where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25 metres in both directions.

Reason: To provide adequate visibility from and of emerging vehicles.

- 14) No part of the development hereby approved shall be occupied until the footway that is located adjacent to the southern boundary of the site together with a visibility build out facility at the junction with Exwick Lane 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 that purpose at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site, in the interests of public safety.

In the event that the Section 106 Agreement is not completed within six 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 by the Section 106 Agreement.

(Report circulated)

17 **TREE PRESERVATION ORDER NO. 637 (WESTHAY, STREATHAM RISE, EXETER) 2011**

Councillors PJ Brock, Mrs Henson and Winterbottom declared personal interests as they knew the objector.

The Head of Planning and Building Control presented the report updating Members on objections that had been received by the Council to Exeter City Council Tree Preservation Order (TPO) No. 637 (Westhay, Streatham Rise, Exeter) 2011.

Members were circulated with a plan of the location of the Tree in question.

The recommendation was that the TPO 637 be confirmed.

Mr Myers spoke against the Tree Preservation Order. He raised the following points:-

- the tree was planted by the owner in 1978 but had grown substantially and was now out of proportion. It was over 60 feet high and the photo representation in the presentation failed to communicate the true impact of the tree on the area. In the five months since the TPO had been placed the tree had grown further
- the Tree Surgeon had contacted the local authority to seek permission to reduce the height etc. Good husbandry required the tree to be topped but it was not the intention to remove the entire tree
- the tree overhangs Archerfield, branches were dropping within the curtilage as well as on parked cars and debris was blocking the gutters and down pipes
- the owner of Westhay was concerned that the tree created excessive shade, to the detriment of other trees and plants in the garden.

- the tree had been a 25th wedding anniversary present to the owners of Westhay and was therefore of sentimental value, explaining their wish not to completely lose the tree
- the roots of the tree could potentially cause damage to the foundations of Archerfield and a major public sewage pipe nearby
- the tree has a very limited amenity value as it can only be seen by a limited number of people.

A Member read out a letter from a Committee Member who had submitted apologies for the meeting, supporting the removal of the TPO.

RESOLVED that the order be not confirmed.

(Report circulated)

(The meeting commenced at 5.30 pm and closed at 7.20 pm)

Chair