

## **PLANNING COMMITTEE**

Monday 5 September 2016

### **Present:**

Councillor Sutton (Chair)  
Councillors Denham, Lyons, Gottschalk, Prowse and Morse

### **Apologies:**

Councillors Bialyk, Spackman, Edwards, Foale, Harvey and Newby

### **Also Present:**

Assistant Director City Development, Principal Project Manager (Development), Project Manager and Democratic Services Officer (Committees) (HB)

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### **MINUTES**

The minutes of the meetings held on 23 May and 22 June 2016 were taken as read and signed by the Chair as correct.

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### **DECLARATIONS OF INTEREST**

No declarations of interest were made by Members.

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### **PLANNING APPLICATION NO. 16/0405/03 - BELGRAVE ROAD, EXETER**

The Principal Project Manager (Development) presented the application for demolition of existing buildings and re-development to provide student accommodation (Sui Generis), ancillary facilities, and ground floor uses in classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), D1 (non-residential institutions) and D2 (assembly and leisure), with cycle parking provision and public realm improvements.

Members were circulated with an update sheet - attached to minutes.

The Principal Project Manager (Development) advised that the Community Infrastructure Levy figure payable under the heading "Financial Considerations" should read £934,132.92 not £933,303.84 and set out suggested change to condition 9 in respect of the Construction and Environment Management Plan. He also reported that the reasons for conditions 7 and 8 should read "to protect controlled waters and human health.

Ms Goddard spoke against the application. She raised the following points:-

- represent the Deltic Group as General Manager of Unit 1;
- Deltic Group has operated this very successful late-night leisure venue since June 2007 opening between 10.00pm and 2.30am Mondays to Thursday's and to 3.30am on Fridays and Saturdays. It has a capacity of 850 people and the site has operated as a licensed venue since before 2000;
- the immediate local area has always had a mix of commercial businesses which generally traded during the daytime and were closed at night. Local residential properties existed beyond the immediate area and so, historically, have not been affected by the club. This situation recently changed with the approval of a large student accommodation complex on the adjoining site at Townsend

Printers in Western Way, Exeter. Noise surveys undertaken were totally inadequate for purpose and the noise attenuation measures within the new development have proved to be totally inadequate. This has generated noise complaints from the occupants of the new student accommodation;

- the principal concerns with the current planning application relates to the potential for future noise and disturbance to new residents at the application site. Unit 1 lies immediately adjacent to the application site and complaints from future residential occupiers of the application site could lead to calls for possible restrictions on the business and opening hours. Proper consideration needs to be given to this critical issue, in order to avoid creating another land-use conflict comparable to the decision on the Townsend Printers site;
- Paragraph 123 of NPPF requires planning decisions to recognise that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;
- further consideration needs to be given to the proposed development of 588 residential bedrooms, as there would be a clear conflict between the nightclub and the residential units. The imposition of conditions has failed to address the noise issues raised at the Townsend Printers site and may similarly be insufficient in this case. The issue of potential noise impact is fundamental to the principle of development in this case;
- refer to the recent High Court decision on 8 September 2015 relating to proposed residential development adjoining KoKo nightclub and live music venue in Camden. High Court Judge Mr Justice Stewart criticised the local planning authority because noise impact had not been adequately assessed. The grant of planning permission for the proposed residential development was quashed and the Council was required to pay the claimant's full costs;
- the consideration of noise impact is key and the High Court ruling confirms that the concerns raised by the Deltic Group are material considerations;
- neither the Planning or Design and Access Statements that accompany the current planning application make detailed reference to the adjacent late night use and provide no details of the requisite significant attenuation works required to protect the amenities of future residential occupants;
- Deltic Group has appointed specialist acoustic consultants to review the submitted Noise Assessment Report. The Report is considered to contain a number of failings including taking a noise survey on a Tuesday night whereas music noise is generally louder with more bass content on other nights, the noise survey does not adequately take into account music break-out from the lightweight night-club roof, some of the maximum results quoted in the report appear incorrect and the calculated external levels have not been determined for all accommodation façades facing the courtyard, some of which will be exposed to music break-out and patron noise from the night-club;
- music break-out from the lightweight night-club roof does not appear to have been considered;
- recommended acoustic requirements for windows and trickle vents, and the resultant internal levels have not been determined for all accommodation façades facing the courtyard; and
- overall, the night club use has not been adequately addressed in the submitted Noise Assessment, with the risk that future occupants will be exposed to excessive noise, contravening paragraph 123 of the NPPF.

Responding to Members' queries, she advised that about 20 complaints relating to noise and disturbance had been received from the occupants of the student flats at the Printworks in spite of triple glazing and internal ventilation. Windows were often left open and the noise related to both music breakout from the club and disturbance in the streets.

Mr Yeates spoke in support of the application. He described the scheme and the pre-application and application process and engagement.

He responded as follows to Members' queries:-

- the need to address problems associated with noise had been recognised from the outset of the scheme and discussed with Council officers. Appropriate mitigation measures would be incorporated in the scheme including triple glazing and internal ventilation to protect future residents. It was also important that the development itself did not impact on neighbouring properties. The necessary mitigation measures were covered by condition;
- will continue to engage with the University given that students are being accommodated and this will include discussions on cycle related issues;
- discussions have been held with the County Council Highways Engineer regarding off site works relating to the highways including a pedestrian crossing;
- with regard to consultations with Unit 1 representatives, there had been dialogue regarding survey work and some discussion over the past week but not a one to one meeting. Will undertake to consult with Unit 1 after the meeting;
- a travel assessment and travel plan have been undertaken and discussed with highway officers including potential cycle routes to the University campus and elsewhere. Provision is being made within the site for cycles and cycle parking stands are to be provided as part of street furniture in the vicinity; and
- with regard to students bringing cars to the City, the management of dropping off and picking up students at beginning and end of terms will be included within the management of the site and the responsibility of the Management Company, the applicant working with such companies across all its student accommodation sites. The importance of robustly discouraging students from bringing cars is recognised and a key role for the management company will be to maintain good relations with neighbouring areas and to ensure on-going dialogue with local residents. A wholesale ban on students bringing cars would be difficult to enforce and police so feedback on any problems in this regard would be welcome.

The Principal Project Manager (Development) advised that highway improvements would be secured by a Section 106 Agreement under the Town and Country Planning Act 1990 including a pedestrian crossing but that this would not conflict with any other highways works considered more appropriate in relation to and part of other forthcoming developments in the area.

The Section 106 Agreement proposed would also require:-

- a district heating contribution of £86,447;
- a student management plan;
- the provision of off-site highway works; and
- a contribution towards Traffic Order costs;

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

Members recognised the issues raised in relation to noise and car parking but were of the view that these would be associated with student developments in any part of the City and, in respect of this application, would not be overwhelming to merit refusal. However, considerable concern was raised regard the scale and massing of the proposal in terms of both its impact on the immediate area and with regard to

views from other parts of the City. Although there was support for certain aspects of the design, such as the internal courtyard, it was not thought that the current proposal was acceptable given the overbearing nature of the height and size of the blocks.

**RESOLVED** that the application for the demolition of existing buildings and redevelopment to provide student accommodation (Sui Generis), ancillary facilities, and ground floor uses in classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), D1 (non-residential institutions) and D2 (assembly and leisure), with cycle parking provision and public realm improvements be **DEFERRED**, for the applicant to have an opportunity to provide a revised proposal with differing and reduced scale and massing.

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**APPLICATION NO. 16/0806/03 - 22 LINCOLN ROAD, EXETER**

The Assistant Director City Development presented the application for a detached dwelling.

Mrs Perrin spoke in support of the application. She raised the following points:-

- the proposed house is going to be our home. It has been designed to accommodate our growing children, who are going to be with us for sometime and will provide them both with a good sized bedroom;
- in our opinion, the house sits well on the proposed plot. It has been planned that the materials and design will be in keeping with adjoining properties. The lower elevation of the dwelling should also help it blend in with the street gradient;
- in putting in this application we have ticked all the planning requirements regarding property/room sizes, internal/external storage, private amenity space/garden and on-site parking; and
- we understand parking has been a major objection. As we are going to live here, we did not want this matter to be an issue and have therefore made provision for two off road spaces per house which we understand Devon County Council are happy with.

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

**RESOLVED** that planning permission for a detached dwelling be **APPROVED**, subject to the following conditions:-

- 1) C05 - Time Limit – Commencement.
- 2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 28 June 2016 (*dwg. no(s). 5 rev B, 6 rev C, 7 rev B and 8 rev C*), as modified by other conditions of this consent.  
**Reason:** In order to ensure compliance with the approved drawings.
- 3) No part of the development hereby approved shall be occupied until the two on-site car parking spaces, as indicated on Proposed Block Plan Drawing 5 rev B have been provided 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.

- 4) Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, C, D, E and G of Part 1, Classes A and C of Part 2 of Schedule 2 (which includes enlargement, improvement or other alteration, porches, sheds, greenhouses, huts, oil storage tanks, fences and walls) shall be undertaken on the premises, other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained.  
**Reason:** To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity.
- 5) C75 - Construction/demolition hours.

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**APPLICATION NO. 16/0949/03 - 79 HEAVITREE ROAD, EXETER**

The Project Manager (Planning) (KW) presented the application for the part demolition (rear wing only), alteration and extension of existing building for use as 81 bedroom student housing accommodation (sui generis) with associated external cycle store and landscaping works.

Members were circulated with an update sheet - attached to minutes.

The Project Manager (Planning) reported that the County Council Highways Engineer sought the provision of cycle parking (56 cycles) by condition with a travel plan also secured either by condition or as a part of the student management agreement. Further, to protect the function of Heavitree Road and the safety of users of the public highway it was essential that the construction arrangements were carefully managed. A condition was therefore recommended to ensure the above with the applicant advised to meet to agree suitable working arrangements prior to commencement.

A Member referred to the difficulty in crossing Gladstone Road between the Police Station and Waitrose and it was confirmed that the County Council would be consulted to establish if they will provide a crossing. If appropriate, this could be pursued as part of a Section 106 Agreement.

Ms Dart spoke against the application. She raised the following points:-

- speaking on behalf of father, Will Gannon, to voice his concerns about some of the proposed windows from the planned extension at the rear of 79 Heavitree Road which will overlook his private garden at the rear of 81 Heavitree Road;
- he has submitted a number of alternative suggestions to overcome this problem but have not been taken up by the developer;
- a drawing he has provided shows the existing windows at the rear of 79 Heavitree Road, superimposed on the east elevation of the proposed extension. Eight windows are being proposed at or above the level of the two windows in the existing extension; and
- the developer should be asked to come up with some alternative suggestions to at least make the situation no worse than it is at present. Otherwise ask that a decision be deferred to allow for a site meeting to be convened.

Responding to a Member's question, she confirmed that there was no garden at present, as the proposed garden area was a car park for the offices which were to be converted to residential.

Mr Wright spoke in support of the application. He raised the following points:-

- the applicant specialised in the provision of high quality student development and this was the first scheme undertaken in Exeter;
- although not a listed building, the site was quite prominent and it had been important to achieve critical mass to ensure that the development was visually attractive by adding to the rear of the building and ensuring circulation within the middle;
- aware of concerns of objector wishing to change 81 Heavitree Road from offices to residential, but there is no garden in situ at present and the exact nature of the objections have not been viewed;
- windows overlooking the proposed garden area are further away than windows to the rear of the development looking on to other residential properties and are "allowable and a normal distance". The landscaping in the area near 81 Heavitree Road would be enhanced and additional protection provided for the trees;
- unfortunate that the plans for conversion to residential coincided with this student scheme; and
- wish to bring scheme forward as a matter of urgency with contractors already engaged with view to completion in time for the 2017/18 academic year.

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

**RESOLVED** that, subject to:-

- the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 requiring a Management Plan for the day to day operation of the Student Accommodation and, if appropriate, secure a contribution towards the provision of a pedestrian crossing on Gladstone Road; and
- a requirement for CIL contributions amounting to £65,561 of New Homes Bonus payable to the Council on new homes appearing on the Valuation Office list. (on the basis the 15 studios are Band A (£767.64 each, total £11,514.60) and the 10 cluster flats Band C (£1023.52 each, total £10,235.20) the Council will receive a total of £21,749.80 if the award continues to be paid for six years); and

planning permission for proposed part demolition (rear wing only), alteration and extension of existing building for use as 81 bedroom student housing accommodation (sui generis) with associated external cycle store and landscaping works be **APPROVED**, subject also to the following conditions :-

- 1) UN7 - Unique Condition 7
- 2) C05 - Time Limit – Commencement
- 3) C15 - Compliance with Drawings
- 4) The development hereby approved shall be constructed with centralised space heating and hot water systems that have been designed and constructed to be compatible with a low temperature hot water District Heating Network in accordance with the CIBSE guidance "Heat Networks: Code of Practice for the UK". The layout of the plant room, showing provision for heat exchangers and for connection to a District Heating Network in the Highway shall be submitted to and approved in writing by the

Local Planning Authority and the approved details shall be implemented on site unless otherwise agreed in writing.

**Reason:** In accordance with the requirements of policy CP13 of the Exeter Core Strategy 2012 and in the interests of sustainable development.

- 5) The materials it is intended to use externally in the construction of the development shall be in accordance with details submitted to the Local Planning Authority on 1 August 2016 unless otherwise agreed in writing.  
**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.
- 6) No part of the development hereby approved shall be brought into its intended use until secure cycle parking facilities have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.  
**Reason:** To provide for sustainable transport and ensure that adequate facilities are available for the traffic attracted to the site.
- 7) Travel Plan measures including the provision of sustainable transport welcome packs and details of the arrangements of how student pick up/drop off will be managed, shall be provided in accordance with details agreed in writing by the Local Planning Authority and Local Highway Authority in advance of occupation of the development.  
**Reason:** To promote the use of sustainable transport modes and in the interest of highway safety, in accordance with paragraphs 32 and 36 of the NPPF.
- 8) No development shall take place until a Construction and Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to:
  - a) There shall be no burning on site during demolition, construction or site preparation works;
  - b) Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;
  - c) Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance;
  - d) Details of access arrangements and timings and management of arrivals and departures of vehicles.

The approved CEMP shall be adhered to throughout the construction period.

**Reason:** In the interests of the occupants of nearby buildings.

- 9) In the event of failure of any trees planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 10) Prior to occupation of the development hereby approved details of provision for nesting birds and swifts shall be submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.

**Reason:** In the interests of preservation and enhancement of biodiversity in the locality.

- 11) C57 - Archaeological Recording.

- 12) The buildings hereby approved shall achieve a BREEAM 'good' standard as a minimum, and shall achieve 'zero carbon' if commenced on or after 1 January 2019. Prior to commencement of such a building the developer shall submit to the Local Planning Authority a BREEAM design stage assessment report, the score expected to be achieved and which standard this relates to. Where this does not meet the minimum required standard the developer must provide details of what changes will be made to the development to achieve the minimum standard, and thereafter implement those changes. A post completion BREEAM report shall be submitted to the Local Planning Authority within three months of the substantial completion of any such building hereby approved. The required BREEAM assessments shall be prepared, and any proposed design changes approved prior to commencement of the development, by a licensed BREEAM assessor.

**Reason:** To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development.

- 13) Details of all building services plant, including sound power levels and predicted sound pressure levels at a specified location outside the building envelope, shall be submitted to and approved in writing by the local planning authority. The predicted noise levels shall be submitted prior to commencement of the development and shall be demonstrated by measurement prior to occupation of the development.

**Reason:** To protect the amenities of the future occupiers of the building.

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#### **APPLICATION NO. 16/0835/03 - 43 ST DAVID'S HILL, EXETER**

The Assistant Director City Development presented the application for the erection of new palisade fence. He asked Members to disregard reference to a fall-back position and referred to the necessary heritage tests.

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

**RESOLVED** that planning permission for the erection of a new palisade fence be **APPROVED**, subject to the following conditions:-

- 1) C05 - Time Limit – Commencement
- 2) 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 04 July 2016 (*dwg. no(s). Location Plan, Site Plan*), and the *sample fence panel received 24 August 2016*, as modified by other conditions of this consent.



**Reason:** In order to ensure compliance with the approved drawings.

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**LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the Assistant Director City Development was submitted.

**RESOLVED** that the report be noted.

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**APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

**RESOLVED** that the report be noted.

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**SITE INSPECTION PARTY**

**RESOLVED** that the next Site Inspection Party be held on Tuesday 20 September at 9.30 a.m. The Councillors attending will be Gottschalk, Morse and Prowse.

(The meeting commenced at 5.30 pm and closed at 7.13 pm)

Chair