

PLANNING COMMITTEE

Monday 15 April 2019

Present:-

Councillor Sutton (Chair)

Councillors Lyons, Bialyk, Branston, Edwards, Harvey, Mrs Henson, Morse, Prowse, Sheldon, Thompson and Vizard

Also Present

Director (BA), City Solicitor & Head of HR, Service Lead City Development, Assistant City Development Manager, Principal Project Manager (Development) (MH), Project Manager (Planning) (ZN), Litigation Solicitor and Democratic Services Officer

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MINUTES

The minutes of the meeting held on 18 March 2019 were taken as read, approved 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. 18/0873/FUL - LAND AT RIBSTON AVENUE, EXETER

The Chair made the following statement in respect of the application for the construction of a 54 bed independent hospital (Use Class C2) with access, car parking, landscaping/open space and associated works:-

“Planning Committee has previously considered this application at its meeting on the 3 December 2018. The Committee resolved to grant planning permission in accordance with the officer recommendation set out in the report. Before the Planning Permission was issued, the Hill Barton Residents Association applied to Judicially Review the Council’s decision. The grounds for Judicial Review were in brief:-

1. Failure of the Council to discharge its duty under Section 11(2) of the Children’s Act 2004 by failing to consult properly;
2. Failure of Devon County Council to declare a financial interest in the application (as owner of the land) and having undue influence upon the decision as a statutory consultee (highways and flooding);
3. Failure to impose a condition excluding the use of the development within Class C2a of the Use Classes Order 1987/764;
4. Failure to secure a planning contribution for the benefit of the school.

On reflection, the Council agreed that it should re-consider its decision in the light of the matters referred to in ground 1. As a result, the Judicial Review was discontinued by the Hill Barton Residents Association. Today, the report has been prepared in substitution of the original report to allow the Committee to consider the application afresh, taking into account all the information and responses we now have.”

The Chair reminded Members that, as decision makers, they may be predisposed

to particular views. However, if any Member had closed their mind to any possibility beyond that predisposition, with the effect that they would be unable to apply their judgment fully and properly to the matter in hand and to take into account new information as set out in the report and not minded to listen to what is being said both for and against the application, then they must absent themselves from determining the matter on the basis that they have predetermined the application.

A Member suggested that three Members of the Committee, from comments made at 3 December meeting of this Committee, had shown themselves to have been predisposed to certain views. The City Solicitor and Head of Human Resources quoted the provisions of Section 25 of the Localism Act 2011 and, following a number of questions to the Members concerned, was of the view that on the face of it, the Members concerned appeared to be still open minded and none appeared to have already made up their mind as to which way to vote.

The Service Lead City Development introduced the report stating that it was an amalgam of the previous report with additional information added following further consultations. It specifically covered safeguarding matters following further information from the public and third parties and also covered the Council's obligations under the Equalities Act 2010.

The Principal Project Manager (Development) (MH) presented the details of the application which were the same as those reported to the 3 December meeting, other than changes to the boundary fencing. He explained that it was now proposed that the entire boundary would be three metres high with mesh fencing, apart from an area of fencing near the service road which was a two metre high mesh fencing on top of a one metre high gabion basket wall.

The Service Lead City Development reported that the following additional consultations had taken place:-

- Environmental Health on noise matters;
- Police Designing Out Crime Team;
- NHS - Safeguarding;
- Safeguarding Adults Board Devon County Council (DCC);
- Safeguarding Children Board (DCC) - now Devon Children and Families Partnership;
- Plymouth Diocese - Safeguarding Lead;
- Head Teacher St Nicholas RC Primary School;
- Plymouth CAST (Multi-academy trust of 36 Catholic Schools across South West of England);
- Devon County Council (DCC) as Local Education Authority (LEA); and
- Devon Partnership NHS Trust.

and referred to the representations received from the following consultees:-

- Chief Nursing Officer South Devon and Torbay Clinical Commissioning Group who had no objections on safeguarding grounds;
- the Devon Children's and Families Partnership who had no objections and welcomed the enhancement of mental health provision;
- the safeguarding lead of the Plymouth Diocese who was concerned regarding the difficulty in guaranteeing safety;
- the Headteacher of the St. Nicholas RC Primary School who, in addition to objecting, asked that, should the application be approved, a condition be

- added to prevent the facility taking on individuals who had connections with the Criminal Justice System and requesting that the Section 106 Agreement include a provision for a financial contribution to the school;
- the Devon Partnership NHS Trust who sought a balance between the element of risk and safeguarding against alienating people with mental health needs;
 - Plymouth CAST (Multi-academy trust of 36 Catholic Schools across South West of England) who supported the Headteacher; and
 - Devon County Council as education authority who had no objections on safeguarding grounds, as the public health body who did not object, subject to the facility meeting the standards of the Care Quality Commission and as a Children's Service stating that there was no evidence to give rise to concerns from a safeguarding point of view from other Cygnet facilities.

The Service Lead City Development stated that, following the additional consultations undertaken, and further representations received in respect of the proposal, additional questions/matters of clarification had been put to the applicant. He highlighted Cygnet's response in respect of safeguarding and their confirmation that they intended to comply fully with Care Quality Commission standards.

The Service Lead City Development explained that the facility would be for the provision of care and treatment to patients falling within the 'Acute to Low Secure' range only. The application was for a hospital falling within Class C2 of the Use Classes Order, the principal feature being the provision of 'care' which was personal care for people in need of such care by reasons of past or present mental disorder. The City Development Manager reminded Members that, in planning terms, whether a particular use or facility falls within any use class is to be determined by its primary purpose.

The difference between 'security' in this context (Class C2) and that in respect of secure residential institutions falling within Class C2a - including secure hospitals alongside uses such as prisons, detention centres and custody centres which might be considered less appropriate in a residential area - had previously been recognised by the Courts. The difference being that, in respect of a Class C2a use, their main purpose was to keep persons under control who were a potential danger to society at large as opposed to residential institutions whose primary function was the provision of care to people in need of care, albeit they may incorporate ancillary security measures as part of the delivery of that care. Should a proposal come forward for a Class C2a use in respect of this facility, a new planning application would be required.

With regard to the Equalities Act 2010, the Service Lead City Development advised that the Council should have regard to people with protected characteristics which in this case covered both children and people with mental illnesses. It was considered that there was no negative impact from an equality perspective because of the design of the facility, management arrangements and the requirements of the regulatory regimes.

The Service Lead City Development referred to representations received circulated with the update sheet and a further representation received on the day of the meeting relating to highways matters which had been seen by the Highways Officer.

The Service Lead City Development stated, that in view of the issues reported, the recommendation was for approval, subject to the conditions as set out in the report

including a Section 106 Agreement covering public open space and a traffic order.

Members were advised, in response to queries from a Member, that Devon County Council rather than the Department of Transport were the appropriate consultee on highways issues. The Service Lead City Development also confirmed, in response to a Member, that no consultation response had been received from Ofsted. Responding to two Members, he re-iterated that any application for a Class C2a use would be the subject of a planning application to be considered by this Committee and that a Class C2 use was in respect of treating ill people.

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

- representing the views and concerns of the community. The objection is not to the provision of mental health services which are much needed;
- the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety. It is believed that there will be an unacceptable cumulative impact on traffic flow on Hill Barton Road;
- there is evidence that the judgement made by Devon County Council Highways is flawed as their determination was based, in part, on incorrect data provided by Cygnet Health Care's Transport Statement following a survey by Northern Transport Planning Ltd;
- an increase in the number of vehicles will have a serious impact on Bramley Avenue where there are already existing traffic issues and grid-lock can be anticipated. Bramley Avenue has a very high level of traffic flow in the morning peak as evidenced from an independent survey conducted in recent days which showed 120 vehicles an hour rather than 30 vehicles an hour. There are already issues with congestion and any additional traffic from this hospital will exacerbate problems. There will be additional traffic on Lower Hill Barton Road, an important commuter corridor, which will also adversely impact on Bramley Avenue;
- additional traffic will also result from the two shift system for nursing staff at the hospital;
- hospitals attract additional vehicle activity from the Ambulance Service, the Police and the Fire Brigade. Rescue appliances will not be able to get to a life threatening incident either at the hospital, or on the Hill Barton residential estate, because Bramley Avenue will be grid-locked by too much traffic;
- Devon and Somerset Fire and Rescue Service have not been consulted on this development;
- a foot/cycle path between Warwick Road and Ribston Avenue is proposed which will allow access along the school boundary. This will enable patients on supervised or unsupervised release to walk immediately next to the play areas of St. Nicholas Primary School which will compromise the safety of children. The potential for contact with pupils is further grounds for the application to be declined;
- security measures agreed with the police were given "in confidence" and it is therefore felt that the Exeter City Council cannot determine the case nor can St. Nicholas Primary School properly conduct a safeguarding risk assessment;
- approval would be contrary to the Council's safeguarding policy;
- the number of applications for the reception year group in September 2019 is low as a number of parents had not applied to St Nicholas;
- there has not been any collaborative discussion to identify and resolve key

- planning issues before this application was submitted and no consultation with Devon Children and Families Partnership;
- serious concerns around the issue of safeguarding and risk, child protection and the welfare of pupils and, in addition, the staff and wider school community;
 - it is for those with the statutory responsibility for child protection to comment and determine on safeguarding issues not planning officers;
 - real concerns about safeguarding and Cygnet appear almost dismissive of safeguarding;
 - a Community Impact Assessment requested by the Devon Children's and Families Partnership has not been carried out;
 - believe, in line with NHS England guidance, that low secure services provide care and treatment for those who present a significant risk of harm to others. As such, and because of the profile of potential patients at this facility, it should not be situated next to any school. With 350 children aged 3 to 11 on roll at St. Nicholas Primary School it is not only the fact that the patients present a risk of escape but the risk profile of those who may escape which creates the safeguarding problem;
 - Cygnet Healthcare Trust may later change their operational statement/admissions criteria and accept higher risk patients;
 - the lead OFSTED Inspector stated that the site was totally inappropriate for a Secure Unit and the Director of Education for Warwickshire and the National Association of Headteachers all express serious reservations;
 - none of the 500 Devon schools are sited next to a prison or secure unit; and
 - as a former Head of primary schools, believe that granting planning permission for a secure unit in such close proximity to a school with 350 pupils compromises the safety of children.

The Highways Development Management Officer responded to highways issues raised:-

- the traffic generated as part of the application could not be classed as severe as the Planning Inspector had come to the same assessment at appeal in respect of the planning application for the adjacent housing development site;
- restrictive highway conditions such as one way systems and residents' parking areas were to be found across the city which did not restrict access by emergency vehicles; and
- not aware that the Devon and Somerset Fire and Rescue Authority had not been consulted; and
- the footpath from the Ringswell Avenue residential site to Warwick Road, to which the applications site would connect into, is beneficial in respect of improving overall connectivity without which opportunities for cycling and walking would be reduced.

Councillor Holland responded as follows to Members' queries:-

- do not accept the applicant's transport statement which is inapplicable to this site and is counter to the independent survey carried out by local residents. Traffic problems in the area will be exacerbated should this development proceed;
- the Headteacher states that only 29 spaces had been filled at the March cut off point leaving a shortfall in the school budget of £64,000; and
- safeguarding issue is of prime concern and "blue light" vehicles

approaching the hospital in the event of any issues from patients with acute problems are likely to impact adversely on children.

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

- serious concerns regarding the safety of children attending the school which includes the safety of own child who is taken to school by parents via the Warwick Road entrance, the development therefore presenting a risk to children as well as the community in general;
- at a Cygnet facility in Wrexham, costs were awarded against the applicant for failing to address safeguarding issues, yet Cygnet believe that, for this application, safeguarding measures have been adequately addressed;
- Cygnet have not had meaningful communications with the Devon Partnership NHS Trust regarding the nature of bed provision for those with mental health issues;
- Cygnet state that the facility is not designed with security in mind; and
- wrong to grant permission given that the issues of safeguarding have not been addressed and the facility will adversely affect children and the wider community.

Responding to a Member's query, he stated that the offers of Cygnet not to cater for individuals who had dealings with the Criminal Justice System and to assist the school with a financial contribution indicated that there was a recognition that this facility was not wholly appropriate within this location.

Following a number of requests from the Chair and in accordance with Standing Order No 24 (3), the meeting was adjourned at 6.40 pm for five minutes because of disturbance from a member of the public. The individual in question left the building.

Carl Dyer spoke in support of the application. He raised the following points:-

- clear need for the facility, identified by Devon Partnership NHS Trust, Devon County Council Public Health and the Devon County Council safeguarding team;
- many, including CAST, who object, accept that there is a need although many also suggest that it should be elsewhere which may not be the best way to make already vulnerable people feel valued members of the community;
- independent, objective professionals are happy with the proposal;
- the Police, NHS safeguarding, Devon County Council, the safeguarding children's board and the local education authority are supportive;
- the hospital will be monitored by the Care Quality Commission (CQC) who will ensure appropriate standards are met;
- it will be a Class C2 hospital, providing care to those in need of care not a Class C2a facility and it cannot change to a Class C2a hospital without a new planning application.
- in Maidstone, the Council is currently building a primary school next to a Cygnet hospital;
- the recommended planning conditions are acceptable and Cygnet will enter into a Section 106 obligation and there is no need for funding for the Police; and
- first time in the last 37 years had to address objections to a hospital.

He responded as follows to Members' queries:-

- the applicant had made a clear commitment not to put people in the facility who have been involved with the Criminal Justice System; and
- a commitment also made that this would not become a Class C2a use facility and that, although there were some security measures, the facility was not a secure unit.

Some Members opposed the application highlighting the restrictive size of the site, suggesting that the environment, as well as presenting problems to the local community and the nearby school, would be unsuitable for the occupants of the facility. They questioned the track record of the operator, referred to some issues that had been raised by the Devon NHS Partnership Trust and the insufficient communication with them by the applicant and raised the potential problems regarding staff recruitment. They referred to the concerns of both the Headteacher and the Safeguarding Lead of the Plymouth Diocese. They did not accept the accuracy or relevance of the transport statement provided by the applicant and highlighted, in particular, the closeness of the facility to the school and the real concerns expressed that the safety of the school children would be compromised. They did not feel that the school and the unit could co-exist next to one another given the safeguarding issues raised. One Member also referred to the nature of acute illness in a mental health context, stating that an acute episode could emerge suddenly and that the designation of this unit as low risk did not accord with the potential for such incidents to occur. They also stated that the location was inappropriate in this long established community.

Other Members fully supported the recommendation. They welcomed the comprehensive report produced since the meeting on 3 December which covered the consultations undertaken enabling matters to be looked at afresh. They referred to the confirmation that the facility was a Class C2 use and not a Class C2a use and the assurance that it would not be converted to Class C2a use noting that a separate planning application was necessary for any such proposal. It was emphasised that the facility would need to operate in accordance with the requirements of the Care Quality Commission and it was also stated that any transfer of patients to and from such facilities were normally undertaken in private, unmarked vehicles. The Members supporting the proposal accepted conclusions put in respect of traffic matters by the County Council Highways Officer, one referring to the Inspector's decision on the nearby housing development in respect of highway matters. She also emphasised the need to have regard to the safeguarding of vulnerable people over the age of 18, that is, the future patients of the unit. Reference was made to the fact that the hospital would, when need arose, cater for residents of the local and wider Exeter community.

RESOLVED that, subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 covering:-

- public open space – provision of public access and maintenance arrangements; and
- a traffic order contribution of £3,000.

planning permission for the construction of a 54 bed independent hospital (Use Class C2) with access, car parking, landscaping/open space and associated works be **APPROVED**, subject to the following conditions:-

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure compliance with sections 91 and 92 of the Town and

Country Planning Act 1990.

- 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 5th June, 11th and 19th October 2018, and 11th, 18th and 29th March 2019 (including dwg. nos. CYG-PHS-XX-ZZ-DR-A-90-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-003 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6, CYG-PHS-XX-00-DR-A-22-001 Rev P2, CYG-PHS-XX-01-DR-A-22-002 Rev P2, CYG-PHS-XX-ZZ-DR-A-27-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-20-001 Rev P5, CYG-PHS-XX-ZZ-DR-A-90-005 Rev P3, Landscape General Arrangement 001I, Landscape Design 003 and Landscape Site Sections 002E) as modified by other conditions of this consent.

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

- 3) Pre commencement condition: No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason for pre commencement condition: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

- 4) Pre-Commencement condition: - No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
- a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials used in constructing the development.
 - d) The erection and maintenance of securing hoarding, if appropriate, which shall be kept clear of graffiti and fly-posting.
 - e) Wheel washing facilities.
 - f) Measures to control the emission of dust and dirt during construction.
 - g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
 - h) No burning on site during construction or site preparation works
 - i) Measures to minimise noise and vibration nuisance to neighbours from plant and machinery.
 - j) No driven piling without prior consent from the LPA.
 - k) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved Statement shall be adhered to throughout the construction period of the development.

Reason for pre-commencement condition: In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest

possible stage.

- 5) In the event of failure of any trees or shrubs, 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 or shrubs 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.
- 6) The building hereby approved shall not be brought into use until the landscaping has been completed in accordance with the approved plans and a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved maintenance schedule shall be adhered to.
Reason: - In the interests of the visual amenity of area and to ensure appropriate maintenance measures are implemented to secure the longevity of the implemented landscaping scheme.
- 7) No part of the development hereby approved shall be brought into its intended use until the vehicular parking, on-site turning area, vehicular and pedestrian access points onto Ribston Avenue as indicated "Drawing Number CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6" has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that a safe and suitable access is achieved, in accordance with paragraph 108 of the National Planning Policy Framework.
- 8) No part of the development hereby approved shall be brought into its intended use until details of the pedestrian/cycle access to the adjacent residential site (to the south of Ribston Avenue) have been approved in writing by the Local Planning Authority and the pedestrian/cycle access has been provided, surfaced and marked out in accordance with the approved plans. Thereafter the said access shall be retained for those purposes at all times.
Reason: To provide a safe and suitable access for pedestrians and cyclists in accordance with Paragraphs 108 and 110 of the NPPF and CP9 of the ECC Core Strategy
- 9) Prior to the development hereby approved being brought into use secure cycle parking provision and staff changing facilities to serve the development shall be provided and made available for use in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said facilities shall be maintained at all times for the intended purpose.
Reason: To provide adequate facilities for sustainable transport.
- 10) No development shall take place until adequate areas have been made available within the site to accommodate operatives' vehicles, construction plant and materials and a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements, measures to minimise the impact on the adjacent footpath and timings of the proposed works. The approved Statement shall be adhered to throughout the

construction period.

Reason: In the interests of highway safety and public amenity

- 11) A comprehensive Travel Plan in line with the proposals mentioned in the submitted Travel Plan Statement (June 2018) and Car Park Management Plan for the site shall be submitted to and approved in writing by the Local Planning Authority in advance of occupation of the development. The Travel Plan measures and Car Park Management Plan shall thereafter will be implemented in accordance with the approved details. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority as part of the Travel Plan thereafter.

Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraph 111 of the NPPF.

- 12) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts 1 and 2 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part 3 has been complied with in relation to that contamination.

1. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

2. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance, and where remediation is necessary an updated remediation scheme must be prepared in

accordance with the requirements of part 1, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved updated remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part 2.

Parts 1, 2 and 3 must all be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: In the interests of the amenity of the occupants of the building hereby approved. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.

- 13) Prior to the commencement of the use hereby permitted, the kitchen ventilation system for the unit shall be installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall include drawings of the location and design of the system, and information on how odour emissions shall be controlled, including abatement if necessary, and how the system shall be maintained to ensure it does not adversely affect the amenity of surrounding uses. The applicant should be advised that further guidance on the required information is available in annex B of the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.
- Reason:** - In the interests of protecting the residential amenity of the occupants of surrounding properties.
- 14) Noise levels at the boundaries of the site associated with plant forming part of the development hereby approved shall not exceed the limits specified in Figure 1 attached to the WSP memo dated 21st September 2018 ref WSP-APM001 submitted in support of the application.
- Reason** - To protect the residential amenity of the occupants of surrounding properties.
- 15) Prior to the development hereby approved being brought into use boundary treatments to all 4 external boundaries of the site, and between the hospital and the open space, shall be erected in accordance with further detailed specifications that shall previously have been submitted to and approved in writing by the Local Planning Authority. The detailed specifications shall be based on the boundary treatments specified on the approved landscaping plans, and in the Design and Access Statement by Land Studio dated February 2019, and comprise detailed specifications (including construction specifications) for each boundary. Thereafter the said boundary treatments shall be maintained at all times.
- Reason** - In the interests of the visual amenities of the area, and the security of the site.
- 16) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.
- Reason:** To ensure that the materials conform with the visual amenity

requirements of the area.

- 17) The detailed design of the proposed surface water drainage scheme to serve the site, including the associated maintenance and management arrangements, shall be submitted to and be approved in writing by the Local Planning Authority prior to the installation of the said drainage facilities. Thereafter the drainage shall be implemented and managed and maintained in accordance with the approved details. Those details shall include:
- a) a timetable for its implementation, and
 - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.
- Reason:** To ensure the satisfactory drainage of the development. This information is required before development commences to ensure that any drainage scheme is properly designed and implemented at the appropriate stage.
- 18) Prior to occupation of the building hereby approved a Wildlife Plan which demonstrates how the proposed development has been designed to enhance the ecological interest of the site, and how it will be managed in perpetuity to enhance wildlife, has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out and managed strictly in accordance with the approved measures and provisions of the Wildlife Plan.
- Reason:** In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

In the event that the Section 106 Agreement is not completed within six months of the date of this committee meeting, the City Development Manager be authorised 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.

(In accordance with Standing Order No.43, the Councillors indicated that their voting in respect of the recommendations be recorded as follows:-

Those voting in favour : Councillors Bialyk, Branston, Harvey, Lyons, Morse, Sheldon and Vizard,

Those voting against : Councillors Mrs Henson and Mrs Thompson)

Councillor Prowse left the meeting at this point.

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PLANNING APPLICATION NO. 18/1053/FUL - ALPHIN HOUSE, MILL LANE, EXETER

The Project Manager (Planning) (ZN) presented the application for the change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, associated car and cycle parking, private amenity space and public footpath. The presentation was a joint one covering application 18/1275/FUL (Min. No. 25 below).

Councillor Warwick, having given notice under Standing Order No. 44, spoke on both applications. He raised the following points:-

- change from 55 plus residence is regrettable;
- an independent report would have been preferable given the County

- Council's ownership of the site;
- Mill Lane is the old country lane from Alphington Village starting as a footway/cycleway only from Ide Lane to Mill House and then shared with vehicles to the junction with Mandrake Road. The footpath is used not only by children of the primary school and West Exe School but the residents of the housing estates in Alphington to get to Marsh Barton and St Thomas;
 - the travel plan is not necessarily a solution to road safety and traffic issues as encouraging further cycle and walking use will also increase conflict with vehicles. The footpath starting at Ide Lane funnels pedestrians into Mill Lane and vehicular traffic and pedestrians cannot pass at the same time on the bridge over Alphinbrook near the junction with Mandrake Road. There is a vital need for a safe footway if planning permission is granted, for example, establish one through the local playing fields;
 - additional traffic will be generated by the development which, allied to parents parking along Mill Lane to drop off and pick up children from the primary school as well as children walking to this school and West Exe, refutes the County Council claim that the situation is not dissimilar to that of other schools in the city;
 - a road management scheme is required to restrict access to residents and visitors only at certain times of the day, that is, when pupils are entering and leaving the primary school; and
 - the main issue is the safety of school children and because of the problem of speeding traffic a speed limit should be enforced which will also help ensure safe access and egress to the development site.

He responded as follows to Members' queries:-

- became aware of the change from a 55 plus residence when the second application was submitted; and
- traffic and parking enforcement had been suggested by the residents although recognise limited enforcement resources.

The Highways Development Management Officer advised that shared space helped minimise traffic speed in accordance with the Manual for Streets. Although school children did come to school close to the peak am traffic flow, they left outside the peak pm flow and therefore the two would not meet. The applicant had agreed to provide a pedestrian footpath adjacent to Mill Lane, on land within the applicant's control. With regard to restricting access to residents and visitors only, this would be difficult to enforce unless cameras were installed and which, in any case, the County Council could not maintain. Mill Lane was the subject of a 20mph speed limit.

Juliet Meadowcroft spoke against both applications. She raised the following points:-

- speaking on behalf of the residents of Mill Lane and Mandrake Close, as well as the parents of school children. The Alphington Village Forum objects to the over-development of Alphin House which will create 22 new units with a total of 46 bedrooms and thus potentially 50 to 60 new residents, possibly owning at least 80 cars with only 22 parking spaces;
- for the reason of children's safety alone, the Forum recommends that the application should be deferred until an independent transport report is obtained;
- nowhere in Mill Lane to park or anywhere else;
- potential conflict of interest with Devon County Council selling the property for profit and apparently oblivious of the dangers imposed by extra traffic on

- a narrow countryside lane;
- conditions requiring safe and suitable access to the site have not been met in the County Council's Highways Report, which ignores the safety of numerous pedestrians and cyclists using Mill Lane twice daily and the impact of more congestion on Church Road and Alphington Road, especially at the junction near Sainsbury's;
- the development does not meet the requirement within the Highways Chapter of the National Policy Planning Framework. The framework states that applications for development should give priority first to pedestrians and cyclists, but also address the needs of people with disabilities and reduced mobility in relation to all modes of transport. It also states that development should create places that are safe, secure and attractive minimising the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter and respond to local character and design standards;
- the development will spoil a pleasant rural lane enjoyed by numerous residents, turning it into a dangerous and busy highway, yet without a path that runs the whole length of the road;
- developer has not provided a pavement from Alphin House to the end of Mill Lane;
- fails to meet the objectives of the Manual for Streets;
- estimate of new traffic is not realistic as it should not base the estimated numbers on the former use as a care home as opposed to the likelihood of up to possibly 50 or so new residents trying to go to work in the morning peak hour by car or bicycle just at the time the children are going to school. The report states that the traffic will double which does not tally with a residents' survey;
- concerns in particular about the safety of all children who walk and cycle;
- recommend that this development is limited to older people who will not be as likely to each own a car and want to drive to work at peak times. The 55 plus age limit should not have been removed; and
- lack of transparency over the whole development.

Mr Burgess spoke in support of both applications. He raised the following points:-

- applicant is passionate about converting redundant buildings to promote high quality and radical accommodation which blends into the local environment;
- use of distinctive materials including brick and tiled pitched roof;
- the design is sensitive to the surrounding area and sense of community and green space will surround the development;
- providing improved vehicular access and a new footpath to be provided along edge of Mill Lane; and
- protection of trees.

Concerns relating to material planning considerations had been addressed through revisions to the scheme, conditions on the decision notice and a Section 106 Agreement. For all the reasons considered and weighing up the development plan policies and proposals, and other material considerations, it was considered that the proposal would be appropriate.

Members did not feel that the increase in traffic movement would be a severe enough impact on the highway network to warrant a refusal of the scheme.

The recommendation was for approval, subject to the conditions and signing of a Section 106 Agreement 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 to secure pedestrian footpath, a Management Scheme, and Affordable Housing, planning permission for the change of use of former care home to provide 19 residential units, partial demolition and re-development of a two storey side extension, associated car and cycle parking, private amenity space and public footpath be **APPROVED**, subject also to the following conditions:-

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.
- 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 25th February 2019 (including dwg. nos. 17447 SD, DTS18.28.1.TPP, (0) 001, 002, 003, 004, 005, 01 F, 02E, 50E, 60B, 10C, 51B, 03 D, 10, 11, 20) as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) Prior to above ground works, samples of the materials it is intended to use externally in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Wherever possible external doors and accessible windows should comply with the Secured by Design (SBD) standards as set out in Secured by Design Homes 2016. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.
Reason: To ensure that the materials conform with the visual amenity requirements of the area and to reduce the fear of and opportunities for crime.
- 4) No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 Trees in Relation to design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.
Reason: To ensure the protection of the trees during the carrying out of the development.
- 5) Pre-commencement condition: The demolition of the existing dwelling on

site with a bat roost as identified in the Bat & Protected Species Survey, Bat Emergence Survey shall not in any circumstances commence unless the Local Planning Authority has been provided with either: A copy of the relevant wildlife licence issued by Natural England authorising the demolition of the building and destruction of the roost; or, A statement in writing from Natural England to the effect that it does not consider that demolition of the building will require a licence.

Reason for pre commencement condition: To ensure that no bat roost is damaged or destroyed without the appropriate licence being obtained in accordance with the Conservation of Habitat and Species Regulations 2010 as amended. These details are required pre commencement as specified to ensure that bats are not killed or otherwise harmed by building operations.

- 6) Pre commencement condition: No works on the demolition of the existing dwelling on site shall commence until details of the replacement bat roost provisions have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of roost provisions and their location on the site. Demolition works shall not commence until the bat roost provision designed to compensate for the loss of the existing roost has been provided on site as approved. The bat roost provisions designed to provide an enhancement on site shall be provided as approved.
Reason for pre-commencement condition: In the interests of biodiversity and to accord with the recommendations of the Bat and Protected Species Survey, and Bat Emergence Survey. These details are required pre-commencement as specified to ensure that they provide satisfactory compensation for the loss of the existing roost and enhancement in accordance with the National Planning Policy Framework.
- 7) No individual dwelling hereby approved shall be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with details that have been approved by the Local Planning Authority as part of this permission. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.
Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.
- 8) Pre-commencement condition: Prior to commencement a detailed assessment of the condition of the existing surface water drainage system must be undertaken, the results of which must be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. Where the assessment shows that works are required to be undertaken to the existing surface water drainage network, a schedule of works must be submitted to the LPA with a timetable for implementation. On completion of the repair works, a verification report must be submitted and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority, prior to occupation
Reason for pre-commencement condition: To ensure that the existing surface water drainage system is of a satisfactory condition to continue receiving surface water runoff generated from the proposed development.
- 9) If, during demolition/ development, contamination not previously identified is found to be present at the site then the Local Authority shall be notified as soon as practicable and no further development (unless otherwise agreed in writing with the Local Planning Authority), shall be carried out until the developer has submitted an investigation and risk assessment, and where

necessary a remediation strategy and verification plan, detailing how this unsuspected contamination shall be dealt with. Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy, shall be submitted to and approved by the Local Planning Authority.

- 10) Pre-commencement condition: Details of gas protection measures should be submitted to and approved, in writing, by the Local Planning Authority. The building(s) shall not be occupied until the approved measures have been implemented and this has been confirmed with the Local Planning Authority.
Reason for pre-commencement condition: In the interest of the public safety and amenity.
- 11) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall take place until a Demolition Construction Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for and not be limited to:
- a) The site access point(s) of all vehicles to the site during the construction phase.
 - b) The parking of vehicles of site operatives and visitors.
 - c) The areas for loading and unloading plant and materials.
 - d) Storage areas of plant and materials used in constructing the development.
 - e) The erection and maintenance of securing hoarding, if appropriate.
 - f) Wheel washing facilities.
 - g) Measures to control the emission of dust/dirt during construction.
 - h) The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.
 - i) No burning on site during construction or site preparation works.
 - j) Measures to minimise noise nuisance to neighbours from plant and machinery.
 - k) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
 - l) Construction traffic and deliveries must avoid school drop off/pick up hours
 - m) No driven piling without prior consent from the LPA.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason for pre-commencement condition: In the interest of the public amenity, highway safety, the environment of the site and surrounding areas.

- 12) Pre-commencement condition: Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out

in accordance with the approved statement.

Reason for pre-commencement condition: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that waste generated during construction is managed sustainably

- 13) Prior to occupation, the vehicular access, on site turning areas and vehicular parking spaces as indicated on Drawing Number 17447 Rev E, must be implemented for 19 cars to be parked and for vehicles to turn, so that they may enter and leave the site in forward gear, in accordance with details that have been submitted as part of this application, and thereafter retained and maintained for that purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide adequate visibility to achieve a safe and suitable access, in accordance with paragraph 108 of the National Planning Policy Framework.

- 14) Prior to occupation of the development, details of secure cycle parking provision and bin stores which show how the proposal responds to Secure by Design principles shall be submitted to and agreed in writing by the Local Planning Authority. The cycle parking and bin stores shall be implemented in accordance with the approved details and thereafter retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide adequate facilities for sustainable transport and to reduce the fear of and opportunities for crime.

- 15) Pre-commencement condition: Prior to commencement details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the Drawing Number 17447 Rev E, have been submitted to and approved in writing by the Local Planning Authority.

Reason for pre-commencement condition: To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and policy CP9 of the ECC Core Strategy

- 16) Prior to occupation a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of a 'travel pack' which will be produced for each dwelling, providing information of walking and cycling routes and facilities, and public transport routes and timetables, car sharing schemes, and the location of local and central shopping and leisure facilities. The approved travel plan measures must be implemented to the satisfaction of the Local Planning Authority. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority thereafter.

Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraphs 111 and 105 of the NPPF

- 17) Prior to occupation, above ground works, a detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority for approval in writing. Such scheme shall specify materials, species, tree and plant sizes, numbers and planting

densities, and any earthworks required together with the timing of the implementation of the scheme. Furthermore, the scheme shall show how it accords with Secure by Design Principles, in particular with regard to boundary screen walls and fences. The landscaping shall thereafter be implemented in accordance with the approved scheme and programme.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime.

- 18) Prior to occupation, details of external lighting on the site and on the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority (including location, type and specification). The details shall demonstrate how the lighting has been designed to minimise impacts on local amenity and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.

Reason: To ensure lighting is well designed to reduce the fear of and opportunities for crime and protect the amenities of the area and wildlife.

Informatives

1. In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with Section 111 of the Local Government Act 1972 or a Unilateral Undertaking).
2. A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
3. The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see www.exeter.gov.uk/cil.

**PLANNING APPLICATION NO. 18/1275/FUL - ALPHIN HOUSE, MILL LANE,
EXETER**

The Project Manager (Planning) (ZN) presented the application for the change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, construction of three terraced houses, associated car and cycle parking, private amenity space and public footpath. The presentation was a joint one covering application 18/1053/FUL (Min. No. 24 above).

Councillor Warwick, having given notice under Standing Order No. 44, spoke on the item as did Juliet Meadowcroft as an objector and Philp Burgess as a supporter. Their views are set out in Min. No. 24 above.

Responding to the views expressed by the speakers, the Highways Development Management Officer advised that shared space helped minimise traffic speed in accordance with the Manual for Streets. Although school children did come to school close to the peak am traffic flow, they left outside the peak pm flow and therefore the two would not meet. The applicant had agreed to provide a pedestrian footpath adjacent to Mill Lane, on land within the applicant's control. With regard to restricting access to residents and visitors only, this would be difficult to enforce unless cameras were installed and which, in any case, the County Council could not maintain. Mill Lane was the subject of a 20mph speed limit.

With regard to concerns relating to material planning considerations it was noted that these had been addressed through revisions to the scheme, conditions on the decision notice and a Section 106 Agreement. For all the reasons considered and weighing up the development plan policies and proposals, and other material considerations, it was considered that the proposal would be appropriate.

Members did not feel that the increase in traffic movement would be a severe enough impact on the highway network to warrant a refusal of the scheme.

The recommendation was for approval, subject to the conditions and signing of a Section 106 Agreement as set out in the report.

RESOLVED that, subject to completion of a Section 106 Agreement under the Town and Country Planning Act 1990 to secure pedestrian footpath, a Management Scheme, and Affordable Housing planning permission for the change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, construction of three terraced houses, associated car and cycle parking, private amenity space and public footpath be **APPROVED**, subject also to the following conditions:-

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.
- 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 25th February 2019 (including dwg. nos. 17447 SD,

DTS18. 28.1.TPP, (0) 001, 002, 003, 004, 005, 01 F, 02E, 50E, 51B, 10C, 60B, 03 D, 10, 11, 20) as modified by other conditions of this consent.

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

- 3) Prior to above ground works, samples of the materials it is intended to use externally in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Wherever possible external doors and accessible windows should comply with the Secured by Design (SBD) standards as set out in Secured by Design Homes 2016. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.
Reason: To ensure that the materials conform with the visual amenity requirements of the area and to reduce the fear of and opportunities for crime.
- 4) No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 Trees in Relation to design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.
Reason: To ensure the protection of the trees during the carrying out of the development.
- 5) Pre-commencement condition: The demolition of the existing dwelling on site with a bat roost as identified in the Bat & Protected Species Survey, Bat Emergence Survey shall not in any circumstances commence unless the Local Planning Authority has been provided with either: A copy of the relevant wildlife licence issued by Natural England authorising the demolition of the building and destruction of the roost; or, A statement in writing from Natural England to the effect that it does not consider that demolition of the building will require a licence.
Reason for pre commencement condition: To ensure that no bat roost is damaged or destroyed without the appropriate licence being obtained in accordance with the Conservation of Habitat and Species Regulations 2010 as amended. These details are required pre commencement as specified to ensure that bats are not killed or otherwise harmed by building operations.
- 6) Pre commencement condition: No works on the demolition of the existing dwelling on site shall commence until details of the replacement bat roost provisions have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of roost provisions and their location on the site. Demolition works shall not commence until the bat roost provision designed to compensate for the loss of the existing roost has been provided on site as approved. The bat roost provisions designed

to provide an enhancement on site shall be provided as approved.

Reason for pre-commencement condition: In the interests of biodiversity and to accord with the recommendations of the Bat and Protected Species Survey, and Bat Emergence Survey. These details are required pre-commencement as specified to ensure that they provide satisfactory compensation for the loss of the existing roost and enhancement in accordance with the National Planning Policy Framework.

- 7) No individual dwelling hereby approved shall be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with details that have been approved by the Local Planning Authority as part of this permission. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.
Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.
- 8) Pre-commencement condition: Prior to commencement a detailed assessment of the condition of the existing surface water drainage system must be undertaken, the results of which must be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. Where the assessment shows that works are required to be undertaken to the existing surface water drainage network, a schedule of works must be submitted to the LPA with a timetable for implementation. On completion of the repair works, a verification report must be submitted and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority, prior to occupation.
Reason for pre-commencement condition: To ensure that the existing surface water drainage system is of a satisfactory condition to continue receiving surface water runoff generated from the proposed development.
- 9) If, during demolition/ development, contamination not previously identified is found to be present at the site then the Local Authority shall be notified as soon as practicable and no further development (unless otherwise agreed in writing with the Local Planning Authority), shall be carried out until the developer has submitted an investigation and risk assessment, and where necessary a remediation strategy and verification plan, detailing how this unsuspected contamination shall be dealt with. Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy, shall be submitted to and approved by the Local Planning Authority.
- 10) Pre-commencement condition: Details of gas protection measures should be submitted to and approved, in writing, by the Local Planning Authority. The building(s) shall not be occupied until the approved measures have been implemented and this has been confirmed with the Local Planning Authority.
Reason for pre-commencement condition: In the interest of the public safety and amenity.
- 11) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall take place until a Demolition Construction Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for and not be limited to:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust/dirt during construction.
- h) The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.
- i) No burning on site during construction or site preparation works.
- j) Measures to minimise noise nuisance to neighbours from plant and machinery.
- k) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- l) Construction traffic and deliveries must avoid school drop off/pick up hours
- m) No driven piling without prior consent from the LPA.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason for pre-commencement condition: In the interest of the public amenity, highway safety, the environment of the site and surrounding areas.

- 12) Pre-commencement condition: Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.
Reason for pre-commencement condition: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that waste generated during construction is managed sustainably
- 13) Prior to occupation, the vehicular access, on site turning areas and vehicular parking spaces as indicated on Drawing Number 17447 Rev E, must be implemented for 19 cars to be parked and for vehicles to turn, so that they may enter and leave the site in forward gear, in accordance with details that have been submitted as part of this application, and thereafter retained and maintained for that purpose unless otherwise agreed in writing by the Local Planning Authority.
Reason: To provide adequate visibility to achieve a safe and suitable access, in accordance with paragraph 108 of the National Planning Policy Framework.
- 14) Prior to occupation of the development, details of secure cycle parking provision and bin stores which show how the proposal responds to Secure

by Design principles shall be submitted to and agreed in writing by the Local Planning Authority. The cycle parking and bin stores shall be implemented in accordance with the approved details and thereafter retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide adequate facilities for sustainable transport and to reduce the fear of and opportunities for crime.

- 15) Pre-commencement condition: Prior to commencement details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the Drawing Number 17447 Rev E, have been submitted to and approved in writing by the Local Planning Authority.
Reason for pre-commencement condition: To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and policy CP9 of the ECC Core Strategy
- 16) Prior to occupation a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of a 'travel pack' which will be produced for each dwelling, providing information of walking and cycling routes and facilities, and public transport routes and timetables, car sharing schemes, and the location of local and central shopping and leisure facilities. The approved travel plan measures must be implemented to the satisfaction of the Local Planning Authority. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority thereafter.
Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraphs 111 and 105 of the NPPF
- 17) Prior to occupation, above ground works, a detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority for approval in writing. Such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. Furthermore, the scheme shall show how it accords with Secure by Design Principles, in particular with regard to boundary screen walls and fences. The landscaping shall thereafter be implemented in accordance with the approved scheme and programme.
Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime.
- 18) Prior to occupation, details of external lighting on the site and on the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority (including location, type and specification). The details shall demonstrate how the lighting has been designed to minimise impacts on local amenity and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.
Reason: To ensure lighting is well designed to reduce the fear of and opportunities for crime and protect the amenities of the area and wildlife.

Informatives

1. In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with Section 111 of the Local Government Act 1972 or a Unilateral Undertaking).
2. A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
3. The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see www.exeter.gov.uk/cil.

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PLANNING APPLICATION NO. 18/0704/FUL - 20 COUNTESS WEAR ROAD, EXETER

The Assistant City Development Manager presented the application for demolition of existing house and annex and construction of four new houses (semi-detached) with associated parking and infrastructure.

Peter Vance spoke against the application. He raised the following points:-

- 43 objections had been submitted from neighbours following two community meetings in respect of an inappropriate development;
- contrary to Objective 9, Policies DG1 and 4, CP4 and 17, H2 and the Residential Design Guide and is an overdevelopment, cramming four, four-bed houses where there is currently one house and annexe, adding a full storey and is monolithic and overbearing;
- the elevations rise vertically almost three metres higher than the existing dwelling, with flat roofs in a neighbourhood where pitch roofs are the norm. The design does not integrate or relate to other properties in height, shape, size or appearance;
- dominates views from all directions near and far and is detrimental to the

area's character. There is no reference to historical context or the medieval core of Countess Wear, Grade 2 listed cottages metres away, and lime kilns;

- the design, height, boundary treatment, and window configuration create significant issues of loss of privacy for neighbours on all sides;
- the ground floor frontage has four garages with seven parking spaces in front, and no habitable rooms. Cars will dominate the street scene;
- area popular with walkers, cyclists, dog walkers, and joggers;
- King George Playing Fields, Exe Valley cycle route, and Green Circle walking routes will be blighted; and
- support recommendation to refuse.

The recommendation was for refusal for the reasons set out in the report.

RESOLVED that planning permission for the demolition of existing house and annex and construction of four new houses (semi-detached) with associated parking and infrastructure be refused as the proposal would be contrary to Objective 9 and Policies CP4 and CP17 of the Exeter Core Strategy, Policies H2, DG1 (b), (d), (f), (g), (h and DG4 a, b, c of the Exeter Local Plan First Review and the Residential Design Guide SPD because:-

- (a) the proposed construction of four residential units would result in the overdevelopment of an inadequately proportioned site, presenting a cramped form of development unsympathetic with, and detrimental to, the character of this established residential area;
- (b) the siting scale and design of the development would have a poor relationship with, and overbearing impact on, No. 20A Countess Wear Road with adverse impacts on the residential amenities of existing and future occupiers of the property, particularly in terms of loss of outlook and overshadowing in the garden area amenity; and
- (c) by reason of its scale, height and design the proposed development would be overbearing, dominant and visually intrusive within and relate poorly to the street scene, to the detriment of the character of the area.

Informatives

1. In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.
2. In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26),

which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

27

PLANNING APPLICATION NO. 18/0707/FUL - 20 COUNTESS WEAR ROAD, EXETER

The Assistant City Development Manager presented the application for the construction of detached dwelling with associated parking and infrastructure on land to rear of 20 Countess Wear Road.

Vanessa Skelding spoke against the application. She raised the following points:-

- 47 objections had been received including immediate neighbours and from all over Exeter, including the Exeter Civic Society;
- proposal goes against Policy CP4, 7, HG1 and DG4. The development does not fit in with the variety of existing housing types and does not demonstrate a high standard of sustainable design and was out of character with the Old Countess Wear village;
- the siting, scale and design of the development would have a poor relationship with, and overbearing impact on, Mill Road, with adverse impacts on the residential amenities particularly overlooking, loss of privacy and light from neighbours on all sides;
- volume and block-shape of this proposal is not in keeping with the adjoining buildings, with their pitched roofs; and the surrounding townscape. Use of materials would not relate to the palette in the locality;
- not in keeping with this historic area of Exeter distinctive with its lime kilns, listed thatched cottages, the paper mill and historic wharf; and
- ill-considered, oversized, disproportionate luxury home.

The recommendation was for refusal for the reasons set out in the report.

RESOLVED that planning permission for construction of detached dwelling with associated parking and infrastructure on land to rear of 20 Countess Wear Road be refused as the proposal would be contrary to Objective 9 and Policies CP4 and CP17 of the Exeter Core Strategy, Policies H2, DG1 and DG4 of the Exeter Local Plan First Review and the Residential Design Guide SPD because the siting scale and design of the development would have a poor relationship with, and overbearing impact on, No. 28 Mill Road with adverse impacts on the residential amenities of existing and future occupiers of the property, particularly in terms of loss of outlook and overshadowing in the garden area

Informatives

1. In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.
2. In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of

the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

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

The report of the City Development Manager was submitted.

RESOLVED that the report be noted.

29 **APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

RESOLVED that the report be noted.

30 **SITE INSPECTION PARTY**

RESOLVED that the next Site Inspection Party will be held on Tuesday 7 May at 9.30, Councillors to be advised of participants.

31 **COUNCILLOR PETER EDWARDS**

The Chair stated that this would be the last Planning Committee for Councillor Peter Edwards, who was to retire as a Councillor at the May Elections. She thanked him for his service to the Committee over many years. She and Members wished him well for the future.

(The meeting commenced at 5.30 pm and closed at 9.06 pm)

Chair