COMMITTEE DATE 16th March 2020

APPLICATION NO: 19/1676/FUL

APPLICANT: Mr Chilvers

LOCATION: St Andrews Yard, Willeys Avenue, Exeter

PROPOSAL: Demolition of existing single storey business premises and construction of new 9 dwelling residential apartment block

REGISTRATION DATE: 27/11/2019

RELATED DOCUMENTS: https://exeter.gov.uk/planning-services/permissions-and-applications/related-documents/?appref=19/1676/FUL

HISTORY OF SITE

In 2002, planning permission was refusal for a change of use from office and store (B1, B8) to motor vehicle sales and storage (02/0075/FUL).

A similar application (Ref 18/1610/FUL) was reported to Planning Committee on 29th July 2019 with an officer recommendation of approval. Members however resolved to refuse the application for the following reasons:

1) The proposal would be contrary to paragraph 127 (a, b, c, and d) and Paragraph 130 of *the National Planning Policy Framework (2019), objective 9 and Policy CP17 of the Exeter Local Development Framework Core Strategy (2012), Policies DG1 (b, g, and h) of the Exeter Local Plan First Review (2005) and the Residential Design Guide SPD (2010) because:*
i) by virtue of its scale and massing this apartment block would be dominant and visually intrusive within the streetscene, unsympathetic with and detrimental to the character of this established residential area.
ii) the proposed development represents poor design that would fail to take the opportunities to improve the character or quality of the area, would not contribute positively to the visual richness and amenity of the townscape and would not raise the quality of urban living through excellence in design.

DESCRIPTION OF SITE/PROPOSAL

The application site comprises a car sales premises of approx. 800 square metres on the south side of Willeys Avenue. The site is triangular in shape and bounded by Network Rail land to the rear, an end terrace dwelling to the east and other terraced properties on the opposite side of Willeys Avenue. The site includes a single storey office building with a floor area of about 151 sq metre situated to the rear of the plot.

Full planning permission is sought for the demolition of the existing office building and the redevelopment of this brownfield site to provide a 9 dwelling residential apartment block (5 two bedroomed and 4 one bedroomed apartments). The previous scheme proposed a development with a modern flat roof design with two and three storey elements. The revised scheme proposes a more traditional approach, which draws a design reference from the bay windows elements of the nearby terraced houses. A gated vehicular access would be

provided from Willeys Avenue, with 9 parking spaces, 18 cycle parking spaces, bin store and 175 sq metre of communal space to serve the development.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The following documents have been submitted in support of the application:
- Design and Access Statement
- Level 2 Flood Risk Assessment
- Geo-environmental Desk Study and Ground Investigation Report
- Results of a Desk-Based Assessment & Walkover Survey (Archaeology)
- Environmental Noise Assessment
- Ecological Impact Assessment (Bats and Birds)

REPRESENTATIONS

16 objections have been received raising the following issues:
1) No change in the scale and massing since the previous refused scheme;
2) Scale and massing still too large for the site;
3) Mansard roof out of character with the area;
4) Overall design incoherent, window grouping lack a sense of order;
5) Loss of sunlight to resident's garden;
6) Overbearing, dominating appearance within the street;
7) Increased noise from future residents;
8) Development too high and oppressive;
9) Three storey development out of character within the street;
10) Cramped form of development
11) Poor amenity for future residents;
12) Increased traffic noise to and from the site;
13) Add to the traffic congestion in the area;
14) Inadequate parking within the site;
15) Erode the character of the area;
16) Overdevelopment of the site;
17) Detrimental impact on wildlife i.e. slowworms, lizards, newts, bats, foxes and hedgehogs;
18) Loss of outlook;
19) Insufficient parking for 9 units.

CONSULTATIONS

County Head of Planning, Transportation and Environment – No objections in principle of re-development of the site. Access for vehicles, pedestrians and cyclists is considered acceptable. The level of traffic generation form the site is expected to be modest and the parking provision is sensible especially given the proximity to public transport. Conditions are recommended to ensure parking, turning area and cycle parking provision.

County Council Education officer has identified that a development up to 5 family type dwellings will generate an additional 1.25 primary pupils and 0.75 secondary pupils which would have a direct impact on the primary and secondary schools in Exeter. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:
DCC have forecast that there is enough spare primary capacity to accommodate the number of pupils expected to be generated from this development. A contribution towards primary education will therefore not be sought against this development.
DCC have forecast that there is enough spare secondary capacity to accommodate 0.36 pupils at the local secondary schools and therefore we will request secondary education

contributions against the remaining 0.39 pupils expected to be generated from this development. The secondary contribution sought is £9,461 (based on the DfE new build rate of £24,261 per pupil). The contributions will be used towards new secondary provision at South West Exeter. This new provision will release capacity at existing secondary schools across the city.

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated at £1,250 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development. These contributions will be used towards new early year's provision at South West Exeter.

Environmental Health raise no objections in principle subject to conditions requiring a Construction Environment Management Plan (CEMP), contamination investigation, and sound attenuation in accordance with the submitted Environmental Noise Assessment.

Network Rail raise no objection in principle to the above proposal but due to the proposal being next to their land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

Environment Agency raised no objection to the previously refused scheme however their comments in response to this application are awaited.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance
National Planning Policy Framework (NPPF)
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
11. Making effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

Exeter Local Development Framework Core Strategy 2012
CP1 – The Spatial Approach
CP3 – Housing Distribution
CP4 – Density
CP5 – Meeting Housing Needs
CP7 – Affordable Housing
CP9 – Transport
CP11 – Pollution and Air Quality
CP12 – Flood Risk
CP14 – Renewable and Low Carbon Energy in New Development
CP15 – Sustainable Construction
CP16 – Green Infrastructure, Landscape and Biodiversity
CP17 – Design and Local Distinctiveness
CP18 – Infrastructure
CP19 - Strategic Allocations

Exeter Local Plan First Review 1995-2011 Saved Policies
AP1 – Design and Location of Development
AP2 – Sequential Approach

H1 – Search Sequence
H2 – Location Priorities
H5 – Diversity of Housing
H7 – Housing for Disabled People
T1 – Hierarchy of Modes
T2 – Accessibility Criteria
T3 – Encouraging Use of Sustainable Modes
T5 – Cycle Route Network
T9 – Access to Buildings by People with Disabilities
T10 – Car Parking Standards
C5 – Archaeology
LS1 – Landscape Setting
EN2 – Contaminated Land
EN4 – Flood Risk
EN5 – Noise
DG1 – Objectives of Urban Design
DG4 – Residential Layout and Amenity
DG5 – Provision of Open Space and Children's Play Areas
DG6 – Vehicle Circulation and Car Parking in Residential Development
DG7 – Crime Prevention and Safety

Development Delivery Development Plan Document (Publication Version) (DDDPD)
This document represents a material consideration but has not been adopted and does not form part of the Development Plan.
DD8 - Housing on unallocated sites
DD13 – Residential Amenity
DD21 - Accessibility and sustainable movement
DD25 – Design Principles
DD26 – Designing out crime

Exeter City Council Supplementary Planning Documents
Residential Design SPD
Planning Obligations SPD
Sustainable Transport SPD
Trees in Relation to Development SP
Archaeology and Development SPD

OBSERVATIONS

The application proposes re-development of an unattractive brownfield site within the urban area and in close proximity to sustainable means of transport. The principle of residential development on this site is therefore considered appropriate. The other main considerations in respect of this proposal are design, amenity, highways issues and flood risk.
Members will be aware of the previously refused scheme. This revised application does not seek to alter the quantum of development or the height and scale of the resultant building. However the applicant has sought to change the elevational treatment of the building to address one of the reasons for refusal.

Design and urban form

The application proposes a two and three story development graduating up from the adjacent two storey terraced properties. Whilst many residents have objected in principle to a three storey development, and would prefer to see traditional two storey terraced properties, the National Planning Policy Framework and the Statutory Development Plan require that we make efficient use of brownfield sites and maximise the contribution they

make to the housing shortfall. Paragraph 118 states that Local Planning Authorities should '*promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively'*. Paragraphs 122 and 123 of the NPPF also stress the importance of achieving appropriate densities. This site is in close proximity to public transport and three and four storey development already exists on this street; therefore it would not be reasonable to object to the proposed form and massing of this proposal.

The existing car sales site is unattractive and has a negative impact on the appearance of the area. The previous scheme proposed an apartment block with a modern flat roof which many residents felt was not in keeping with the traditional pitched roofs of the terraced properties. Consequently the revised scheme seeks to follow a more traditional approach, with distinctive bay window elements characteristic of the immediate vicinity. The layout shows a development that is set back from the pavement edge for most of the development frontage and this will allow for planting to soften the appearance of the development. It is therefore considered that the revised scheme is appropriate in this location. Accordingly the development is considered to comply with the NPPF paragraph 127 and policy DG1 of the Local Plan First Review, and policy CP17 of the Core Strategy. Conditions will be attached to ensure the materials are appropriate and that landscaping is provided to the frontage and to the open areas.

Amenity Issues

Neighbours have voiced concerns regarding the overbearing, overlooking and loss of outlook and privacy that will result from this two and three storey development. However, most dwellings in the urban area have properties on the opposite side of the road and often two storey development faces three storey development; whilst this relationship does result in some adverse amenity impacts it not considered abnormal or unacceptable. Previously residents were concerned about the impact of the front balconies in relation to the potential for overlooking, noise and disturbance. The revised scheme has deleted all the front balconies. It is considered that the residents of the proposed development will have reasonable levels of amenity. The National space standards are met for all the apartments, a communal garden area will be provided and environmental health officers is satisfied that that the development can be constructed in such a way as to ensure acceptable noise levels. Bin storage is provided in accordance with Council standards.

Highways Issues

The development provides 9 parking spaces (one for each apartment) on the ground floor of the development through a gated access. The access position is unchanged and the Highways Authority consider the visibility is acceptable. The level of parking provision is considered reasonable and the Highways Authority state that given the previous use there is likely to be a slight positive highway impact. Therefore whilst a number of local residents are concerned about highway issues the development appears acceptable in this regard. The revised plans show a development with safe covered parking for 18 cycles and this meets the standards set out in the Sustainable Transport SPD.

Flood Risk

The site is Flood Zone 3 wherein there is a high risk of flooding (a 1 in 100 or greater annual probability of river flooding). The development must therefore pass the sequential test and the exception test. Whilst there are sites at lower flood risk the council considers that this brownfield site within the urban area and in a highly sustainable location meets the sequential test. The first part of the exception test is also passed as the development is

considered to offer wider sustainability benefits that outweigh the flood risk. In the previous application the Environment Agency initially advised that the development did not satisfy the second part of the Exception Test; however, following revisions to the design and layout the Environment Agency confirmed it had no objection to the proposal. An updated response is awaited from the Environmental Agency but it is likely to repeat these comments given that the only change to the building is its elevational treatment.

Other issues

Ecology: The Ecology Assessment for bats and birds concludes that the site was of low ecological interest with no adverse impacts predicted on roosting bats or other protected/notable species.

Heritage Assets: Although the recent history of the site as a mission church and hall is interesting, the original church building has been destroyed and the present building does not retain sufficient interest to merit retention; the assessment represents a sufficient record of it. To ensure any archaeological remains are recorded a condition should be attached to the grant of planning permission.

Financial Considerations: The CIL 'Liability Assumption' form and the 'Additional Information Requirement Form' have both been submitted. The net additional gross internal floorspace is 588 sq. metres and therefore CIL payable at the 2019 CIL rate (£119.29 per sq. m) is £70,142.52.

Appropriate Assessment: A Habitat Regulations Assessment has been undertaken. This concludes that whilst the development has the potential for have a significant effect on a European site, the impacts of the development can be mitigated through top-slicing receipts from CIL to contribute towards the implementation of measures in the South East Devon European Site Mitigation Strategy.

Conclusion

The principle of redevelopment of this brownfield site in a highly sustainable location is acceptable. In accordance with the NPPF it is important that we seek to maximise density and delivery of homes on this type of site. With reference to this guidance and also to the contribution that this site would make to housing delivery (having due regard to the weight to be attached to the fact that the Council is unable to demonstrate a 5 year supply of housing land), the proposal for 9 apartments is considered acceptable.

It is acknowledged that the revised scheme essentially seeks to address only one of the two previous reasons for refusal. However as the report sets out the height, scale and massing of the building is considered acceptable in this location and the intention to pursue a more traditional elevational approach is appropriate and has addressed the second reason for refusal. Accordingly it is considered that the application should be approved.

DELEGATION BRIEFING

3 March 2020 – Members were updated of the amended plans which had been received in response to the previous refusal. Members noted the changes made but made no comment given the application was to be reported to Planning Committee.

RECOMMENDATION

Approval subject to a Section 106 Agreement for a financial contribution of £10,711 towards education and 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 20 February 2020 (including dwg.nos.) 553 SK 30 rev g; 31 rev c & 32 rev c).
Reason: In order to ensure compliance with the approved drawings.

3. 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 to the visual amenity requirements of the area.

4. 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: 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.

5. 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 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 and dirt during construction.
h) No burning on site during construction or site preparation works.
i) Measures to minimise noise nuisance to neighbours from plant and machinery.
j) 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.
k) 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 – In the interests of residential amenity.

6. Pre-commencement condition: No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be occupied until the approved remedial works have been implemented and a remediation statement

submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.
Reason: In the interests of the amenity of the occupants of the buildings hereby approved and to protect controlled waters.

7. Pre-commencement condition: Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.
Reason: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

8. No part of the development hereby approved shall be brought into its intended use until vehicular spaces and turning area as indicated by *Drawing Number 553 030 REV E* 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 a safe and suitable access, in accordance with Paragraph 108 of the National Planning Policy Framework.

9. Prior to commencement of the development, details shall be submitted to the Local Planning Authority of secure covered cycle parking provision for the development. Development shall not be commenced until such details have been agreed in writing by the Local Planning Authority, and prior to occupation the cycle parking shall be provided in accordance with the submitted details.
Reason: To provide adequate facilities for sustainable transport.

10. 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 and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; 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. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.
Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

11. 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.

12. The development as built shall achieve at least the level of sound insulation specified in the submitted report **(**Acoustic Associates South West, 31 August 2018, Environmental Noise Assessment for New Flats, St Andrews Yard**),** including the provision of an attenuated mechanical air supply.
Reason: In the interests of residential amenity.

13. Prior to occupation of the building hereby approved place until details of provision for nesting swifts has been 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.

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 s111 of the Local Government Act 1972 or a Unilateral Undertaking).

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. 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.

4) 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 negotiated amendments to the application to enable the grant of planning permission