

PLANNING COMMITTEE
AT COUNTY HALL

Monday 24 April 2023

Present:-

Councillor Emma Morse (Chair)
Councillors Sutton, Asvachin, Bennett, Bialyk, Branston, Foale, Hannaford, Jobson,
Mitchell, M, Moore, D and Snow

Also Present

Director of City Development, Principal Project Manager (Development Management) (CC).
Planning Solicitor and Democratic Services Officer (HB)

26 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Lights and Newby.

27 **MINUTES**

The minutes of the meetings held on 20 February and 27 March 2023 were taken as read, approved and signed by the Chair as correct.

Councillor D. Moore asked for her absence during the consideration of Min. No. 10 of the minutes of 20 February 2023 to be noted as she had declared a disclosable pecuniary interest.

28 **DECLARATIONS OF INTEREST**

No declarations of interest were made by Members.

29 **PLANNING APPLICATION NO. 22/0756/FUL - NEWBERY BREAKERS YARD, REDHILLS, EXETER**

The Principal Project Manager (Development Management) (CC) presented the application for six detached, five-bedroom residential dwellings and associated access and landscaping

The report also setting out the following key elements:-

- the principle of development;
- scale, design, impact on character and appearance;
- contamination;
- biodiversity;
- impact on amenity; and
- highways and drainage.

The Principal Project Manager (Development Management) (CC) described the location of the site through photos, aerial views, an illustrative layout plan and drawings and provided the following additional detail:-

- the application was for six detached, five bedroom dwellings at the former Newbery Car Breakers site on Redhills on the north-west edge of the city. The site was 0.33 hectares in size bounded on all sides by trees covered by Tree Preservation Orders and was within a Landscape Setting area;
- there was a long history of planning applications for development of this site as residential, with the most recent being an Outline consent approved in 2017 for five dwellings.
- two objections had been received in relation to the application raising concerns over the number of dwellings proposed and that five on the site was sufficient. A further objection had been received, raising concerns over the provision of a footpath for occupants, stating a reliance on highway works for the scheme to the north and that the developer should provide a footpath within their site, potentially connecting through third party land;
- the proposed dwellings were spread through the site and would be accessed by a private road from the existing access point onto Redhills;
- in terms of the landscape setting, there were previous approvals for development of this site, as well as approved appeals in the surrounding area and it was considered that the impacts on the landscape setting were acceptable, with the site seeing a high level of screening by the surrounding trees;
- submitted surveys noted bat species in the surrounding area, as well as the potential for the surrounding trees to be used as roosts;
- there was not considered to be any significant amenity impacts on the surrounding area, with a good distance to dwellings to the north-east and south-west, and screening provided by the existing trees on the site.
- the primary area for discussion had been around the pedestrian links from the site. This part of Redhills had no pedestrian footway and it was not proposed to install one as part of this application. The Highway Authority had been consulted on the proposal and had advised that, due to the low number of pedestrian movements from the site it was not necessary or justified to mitigate for the level of movements and that any works would create an unacceptable narrowing of the vehicle highway. Previous approvals on this site were without a footway and, whilst it is noted that these were for fewer dwellings, the Highway Authority has confirmed that the proposed six dwellings would be similar in movements to that previously approved and mitigation would not be required;
- the trees along the boundary were protected by Tree Preservation Orders and any works to provide a footpath would require works to them, including removal. The creation of steps would also create significant harm to the root areas and would not be supported by the Council's Tree Manager; and
- if a footpath did come forward in association with the development of the land to the north, then it would be beneficial to occupants, however this scheme, as assessed on its own merits and without reference any other proposed works in the surrounding area, was considered to be acceptable in terms of highway safety grounds.

The Principal Project Manager (Development Management) (CC) further advised that the CIL rate quoted in Section 15 of the report was out-of-date and should be the 2023 rate of £126.79 not the £119.29 shown in the report.

The Principal Project Manager (Development Management) (CC) stated in conclusion that the scheme proposed large dwellings that would provide a good level of amenity for occupants. Whilst concerns had been raised over pedestrian safety on Redhills it was considered that the low-level of pedestrian movements did not necessitate mitigation measures on Redhills and the development as submitted was acceptable.

The Director City Development and the Principal Project Manager (Development Management) (CC) provided the following responses to Members' queries:-

- both this application and the reserved matters in respect of outline consent for the development to the north and west of the site for 80 dwellings would be considered on their respective merits. As part of the latter application, there was a requirement to provide improvements to Redhills for pedestrians if it moved forward and would therefore be a highways solution to both sites. As it was Outline approval only and the full details of any works to Redhills had not been approved, no Reserved Matters had been submitted and would be considered as a separate matter. Irrespective of the latter site, the Highways Engineer had advised that there were no highways reasons to refuse this application;
- the first pre-commencement condition requiring an Ecological Mitigation and Enhancement Strategy has been removed from the conditions list, as the information was been provided and was covered by the requirements of the condition on Ecological Mitigation;
- the trees fronting Redhills were covered by Tree Preservation Orders and would be retained;
- discussions had been held with the applicant and consultees regarding whether a route through the site would be suitable but could not be progressed as the site did not extend all the way to St Peters Mount, requiring pedestrians to still walk on the highway. Any route to the south would fall into a woodland area that was under third party land and would not be able to form part of this application. In addition, any path exiting onto Redhills would require a stepping out area and would narrow the vehicle highway and not be supported by the Highway Authority. The path would struggle to be lit due to the need for a sensitive lighting scheme and would require steps, which would not be supported by Highways due to lack of accessibility;
- the proposal met the national parking standards and the dwellings exceeded the Nationally Designed Space Standards with large gardens with no significant overlooking or other amenity impacts;
- the Highway Authority had confirmed that traffic movements in respect of the proposed six dwellings would be similar to that of the application previously approved with no significant increase in the volume and nature of traffic and that, accordingly and on balance, highway mitigation measures were not required;
- the site was not large enough to necessitate a sustainable travel plan; and
- any remedial measures necessitated as a result of the contamination would have to be to the satisfaction of Environmental Health as referred to in a Phase 3 Remediation Statement.

Stuart Atkinson spoke in support of the application. He raised the following points:-

- am speaking as the technical director at Stuart Michael Associates Limited, Consulting Engineers and Transportation Consultants (SMA);
- the site is a previously developed site and recognised as brownfield land within Exeter's Brownfield Register. The principle of redeveloping this site for residential development has already been established by previous planning approvals and the development will bring forward six well designed dwellings in a sustainable location. It will provide much needed housing for Exeter and boost the supply of new homes;
- this development will bring a redundant and contaminated site back into use;

- the layout proposed delivers the optimum level of development, whilst also providing a high quality living environment, that respects the setting, character and mature vegetation around the site and delivers on biodiversity objectives;
- the appraisal has had regard to the existing conditions on Redhills; the planning history of the site and the scale of the proposed development;
- the highway improvements that will be implemented on Redhills as a requirement of the consented development on adjoining land;
- Redhills is a rural lane that is subject to a 30mph speed limit. It is lowly trafficked and is designated as part of the National Cycle Network. Selection for this network would have had regard for the speed and volume of traffic;
- Redhills is, in part, a recreational route for cyclists, walkers and equestrians as well as providing vehicular access along Redhills and to nearby communities;
- the site is located a short walk, some 105 metres north of the roundabout of Redhills and St Peters Mount. Currently there is no footway along this short section of the lane. For pedestrians that may walk this short distance there is good visibility along a straight section of road and with a street lighting column on Redhills on the approach to the junction;
- Redhills has experienced a good road safety record; with only one slight incident reported in the past five years over the section between Exwick Lane and Lichfield Road. The incident did not involve a cyclist or pedestrian. It is also relevant to note that changes to the Highway Code have placed a greater responsibility and duty of care on drivers and cyclists to afford greater priority and safety to walkers and equestrians; and
- in regard to the previous application for five dwellings, the local highway authority advised that it had investigated the need for any off-site footway improvements and concluded that "... the levels of pedestrian demand from this development would be low and hence on balance, it is felt that a footway would not be required."

He responded as follows to Members' queries:-

- consideration had been given to the provision of a footpath/cycle path through the site to lead into St. Peters Mount but had been deemed impractical because of the steep topography of the land, the necessary loss of trees and because of the land to the south of the site not being in the ownership of the applicant therefore preventing connection to St. Peters Mount;
- the treatment of gardens and the site in general to ensure that the site as a whole was free of contaminants would be covered by condition; and
- the Highways Authority had advised that there would not be a significant increases in traffic on the 30mph Redhills Road as a result of the increase in the number of dwellings from five to six.

Members expressed the following views:-

- whilst the principle of housing on the site, together with the proposed density, was acceptable, additional traffic would be generated along Redhills increasing the dangerous nature of this road and increasing the likelihood of accidents. Whilst a highway solution had been suggested as part of the outline permission for housing at land to the north, there was no guarantee that this would be forthcoming. The application should be refused on highway safety grounds;
- an alternative planning solution should be sought in order to provide a footway along Redhills to lead into St. Peters Mount;
- notwithstanding the application meeting national parking standards, the size of the houses could lead to multiple occupation and therefore additional car ownership which would also impact on traffic along Redhills;

- the Civic Society had stated that the development would not be the most effective use of the land;
- the rural nature of this part of Redhills would be lost;
- there would be increased danger for children who use Redhills to access two primary schools in the vicinity, the walk to both exceeding 12 minutes;
- it is not a sustainable development and further consideration should be given to the relationship of this site with existing and forthcoming developments for an alternative proposal to be brought forward which would provide for linkage with the site to the north and potentially other existing developments. The application should be refused as it is not sustainable;
- whilst there are concerns on highway and traffic grounds, the Highways Authority have advised that the application is acceptable on highway grounds and the Authority has stated that mitigation measures are not necessary to counter the increase car ownership in the area;
- because of adjoining land being in third party ownership the applicant would be unable to provide for a suggested footpath/cycle path although negotiations with the third party on this issue could have been helpful;
- because of the steepness of the topography the provision of a cycle path would have been difficult;
- the increased traffic will impact on the safety of pedestrians along this narrow lane and a sustainable traffic solution should be sought to provide for the safety of pedestrians;
- have lived in the area for 13 years with highway problems a constant issue which will be exacerbated by this proposal;
- the development will have an adverse impact on the Designated Landscape setting;
- there is insufficient detail in the ecological assessment and detail is required on contamination mitigation measures to ensure that the residents will be able to grow vegetables; and
- the application should be deferred for the Highways Authority to report further on their grounds for considering that there would not be an adverse impact on Redhills.

The Director City Development further advised that the Highways Authority, if in attendance, would have confirmed the written advice provided. The most recent of a number of planning applications for development of this site as residential had been an Outline consent approved in 2017 for five dwellings, the Inspector at an appeal having raised no significant areas of concern and was likely to remain the case at any further appeal regarding this application. Regarding the suggestion for a footway, the applicant had advised that it would not be possible to provide due to both technical restrictions and an issue of third party ownership. The provision of a footpath would also be constrained given the confined nature of the site.

The Planning Solicitor referred to advice provided in planning guidance on determining applications and how an Inspector would assess decisions made in the event of appeals against planning decisions.

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

The recommendation to approve the application was moved and seconded, voted upon and LOST.

The Director City Development further advised on the requirement for Members to provide reasons in the event of voting to refuse the application, referring also to the

deadline for an appeal against non-determination. Any reasons for refusal would be applicable, notwithstanding the timing of an appeal on grounds of non-determination.

A Member moved that the lack of clarification to guarantee that the methods carried out in a Phase 3 Remediation Strategy would be sufficient to mitigate against contamination to allow for food growth by occupants should also be put forward as a reason for refusal.

The Principal Project Manager (Development Management) (CC) advised that this reason was unlikely to be considered as a material consideration.

The motion to include this as a reason for refusal was seconded, voted upon and lost.

Members were minded to refuse the application on grounds of highway safety and sustainability, and accordingly, it was moved that the application be deferred and the Service Lead City Development be requested to report back to the next meeting of this Committee with the full technical reasons for refusal. The motion was seconded, voted upon and carried unanimously.

RESOLVED that planning permission for six detached, five-bedroom residential dwellings and associated access and landscaping be **DEFERRED** for the Service Lead City Development to report reasons for refusal to the next meeting.

30

PLANNING APPLICATION NO. 22/1177/FUL - LAND ADJACENT TO GRAS LAWN AND FLEMING WAY, GRAS LAWN, EXETER

The Principal Project Manager (Development Management) (CC) presented the application for the construction of two, one bedroom, two person dwellings with external space, landscaping and associated works.

At the Planning Committee held on 27 March 2023, Members had been minded to refuse the application and it was resolved to defer the application to allow for the technical reason for refusal to be clarified.

Members wished for the reasons to reflect the divergence in design and appearance between the proposed development and the surrounding townscape, taking into account its incongruous position, layout, external materials and architectural detailing.

Since the last Committee, notification had been received from the applicant that they had lodged a non-determination appeal, but this had not been verified by the Planning Inspectorate. Because of this, a decision could not be issued as the regulations that would have allowed a decision to be made had not been enacted.

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

The recommendation was moved and seconded, put to the vote and carried unanimously.

RESOLVED that:-

- (1) in the event of the Planning Inspectorate verifying the application for non-determination, the following reason for refusing the application for the

construction of two, one bedroom, two person dwellings with external space, landscaping and associated works be **AGREED** to go forward as evidence in support of the Council's case at appeal:-

the proposal is contrary to Paragraph 130 of the National Planning Policy Framework, the National Design Guide, Objective 9 and Policies CP4 and CP17 of the Exeter Local Development Framework Core Strategy, Policies DG1 (a), DG1 (b), DG1 (d) DG1 (G), DG1 (h) and DG1 (i) of the Exeter Local Plan First Review 1995-2011 and Chapter 7 of the Council's Residential Design Supplementary Planning Document because by virtue of its position, size, layout and design the proposed dwellings would:-

- a) result in overdevelopment within a designed housing estate which is incongruous with its distinct landscaped and designed character,
- b) result in a development out of character with the urban grain, massing, fenestration and materials used within the surrounding designed housing estate, having a detrimental impact upon the overall quality of the area, specifically its character, appearance and layout.

- (2) in the event of the Planning Inspectorate not verifying the application for non-determination, the application for the construction of two, one bedroom, two person dwellings with external space, landscaping and associated works be **REFUSED** for the following reason:-

the proposal is contrary to Paragraph 130 of the National Planning Policy Framework, the National Design Guide, Objective 9 and Policies CP4 and CP17 of the Exeter Local Development Framework Core Strategy, Policies DG1 (a), DG1 (b), DG1 (d) DG1 (G), DG1 (h) and DG1 (i) of the Exeter Local Plan First Review 1995-2011 and Chapter 7 of the Council's Residential Design Supplementary Planning Document because by virtue of its position, size, layout and design the proposed dwellings would:-

- a) result in overdevelopment within a designed housing estate which is incongruous with its distinct landscaped and designed character,
- b) result in a development out of character with the urban grain, massing, fenestration and materials used within the surrounding designed housing estate, having a detrimental impact upon the overall quality of the area, specifically its character, appearance and layout.

31

LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS

The report of the Director City Development was submitted.

In response to a question from a Member in respect of application number 22/1682/PDPV, the Chair agreed that a written response be provided to her on the reason for refusal.

RESOLVED that the report be noted.

32

APPEALS REPORT

The schedule of appeal decisions and appeals lodged was submitted.

RESOLVED that the report be noted.

33

SITE INSPECTION PARTY

RESOLVED that the Membership, time and date of the next Site Inspection Party would be advised.

34

COUNCILLOR MRS HENSON

The Chair referred to the forthcoming retirement from the Council at the local government elections on 4 May 2023 of the current Lord Mayor, Councillor Yolonda Henson. Councillor Mrs Henson had served on the Council for 39 years and, during that time had made a significant contribution in her role as a Planning Committee Member, also serving for a period as the Chair of the Committee. On behalf of Members, the Chair wished Councillor Mrs Henson well for the future.

35

COUNCILLOR SUTTON

The Chair announced that Councillor Rachel Sutton would be standing down at the forthcoming local government elections on 4 May 2023 and thanked her for her service on the Council and, in particular, in her capacity as Portfolio Holder and both Chair and Deputy Chair of the Planning Committee. On behalf of Members she wished Councillor Sutton well for the future.

(The meeting commenced at 5.30 pm and closed at 7.00 pm)

Chair