

Planning Committee Report 23/0631/VOC

1.0 Application information

Number:	23/0631/VOC
Applicant Name:	Mr Tim Gashi,
Proposal:	Variation of Condition 2 (approved drawings) of approval 12/1426/FUL (Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities) to alter the height and internal layouts
Site Address:	130 Fore Street Exeter Devon
Registration Date:	22 May 2023
Link to Documentation:	https://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RV2FBHHBG0Q00
Case Officer:	Christopher Cummings
Ward Member(s):	Cllr Diana Moore, Cllr Tess Read, Cllr Amy Sparling

REASON APPLICATION IS GOING TO COMMITTEE

In accordance with the Delegation Briefing decision made on 25 July 2023.

2.0 Summary of recommendation

GRANT permission subject to the conditions set out in Section 18

3.0 Reason for the recommendation:

This proposal will see an additional storey added to the existing approval alongside retention of commercial units at lower-ground floor levels. The retention of the commercial units is welcomed to support Fore Street and the additional height, due to the topography and surrounding built form, is not considered to generate any significant visual or heritage impacts.

Whilst concerns have been raised in relation to privacy and light it is considered that the primary privacy and massing impacts will be from the already approved scheme which will face directly towards properties on West Street. The revisions to the second floor level and the additional third floor are not considered to generate any significant amenity impacts on neighbouring properties that would warrant a refusal on those grounds.

It is therefore concluded that the proposed variations to the approved plans are acceptable.

4.0 Table of key planning issues

Issue	Conclusion
Principle of development	<p>The principle for an upward extension and residential use of the property was established under approval 12/1426/FUL. This application will see an additional storey added and commercial units at lower-ground floor level.</p> <p>It is considered that the proposal meets the requirements for a variation of condition application and can be assessed accordingly.</p> <p>It has been demonstrated that work on the approved scheme lawfully commenced in 2015 and the permission is extant.</p> <p>This application will focus solely on the</p>
Lower-lower ground floor and upper-lower ground floors	<p>The original approval saw the loss of all commercial units at this level and the creation of 3 commercial (Class E) units is welcomed to supper the wider Fore Street shopping area.</p> <p>The loss of 2 residential units to do so is mitigated by the upwards extension.</p> <p>The commercial units have a risk of noise impacts on adjoining flats and an acoustic survey was undertaken that sets out suitable mitigation for this.</p> <p>A new commercial bin store will be created on West Street and full details of the design of this will be required via condition.</p>
Ground Floor, Lower-First Floor, Upper-First Floor	<p>There are no alterations proposed to the previously approved scheme and as such it does not form part of the considerations of this application.</p> <p>There will be a commercial unit at Ground Floor level fronting Fore Street</p>

Issue	Conclusion
	<p>alongside 3 flats, 3 flats on the lower-first floor and 2 flats proposed on the upper-first floor with a shared roof garden created.</p>
Second Floor	<p>The original approval was for a single flat, however this has been extended to create 2 flats in this location. The flats meet the space standards. Whilst the extension will bring the building closer to neighbouring properties on Fore Street it is considered that the dominance occurs at ground and first floor levels and the proposed extension will not significantly alter the dominance, privacy or amenity impacts generated by the original proposal.</p>
Third Floor	<p>A new third floor element is proposed containing 1 flat and a small private roof terrace. It will be set back from West Street by 1.25 metres. The amenity impacts are considered to be acceptable, with it being above properties on West Street, who will see their primary impacts from the massing of the previously approved scheme. The additional height is considered due to the city centre context, as well as the positioning of building and the topography of the site. The building will be primarily screened by the surrounding built form and will have a stepped design to the eastern side of West Street.</p>
Amenity Impacts	<p>Privacy assessment drawings were submitted and it is considered that the privacy impacts are generated from the already approved ground and lower-first/upper-first floor levels. The second floor will not see any significant alteration to that previously approved and the third floor will see a very small level of overlooking that is not considered to generate significant impacts.</p>

Issue	Conclusion
	<p>A sun movement and light plan was submitted and the north-facing nature of dwellings on West Street and position of the site means that there will be no significant loss of sunlight from the revised scheme and a low-level of skyline impact that is not considered significant enough to warrant a refusal on those grounds.</p>
<p>Historic Setting and Visual Impacts</p>	<p>The site is within the Central Conservation Area and there are a number of listed buildings in the surrounding area. The site is obscured by a lot of the surrounding built form, however there are still key views from the east and west.</p> <p>It is visible from Bartholomew Street West, however it follows the built form and the majority of the massing is as previously approved. Whilst there will be an addition to the skyline it is not considered to generate significant visual harm.</p> <p>To the east there is a key viewpoint looking east along West Street, however the scheme follows the built form and steps down with the topography of the street and will not create a dominance that sits above The House That Moved or St Marys Steps Church and is not considered to detract from their positioning, the wider area or the Conservation Area.</p>
<p>Highway Considerations</p>	<p>The original proposal was acceptable as car-free development for 13 flats and this proposal will remain the same. Bike storage remains as previously approved on the upper-lower ground floor level.</p> <p>As no alterations to these aspects are proposed and there is no change in the level of development they are</p>

Issue	Conclusion
	considered to remain acceptable as previously approved.
Conditions	Conditions can only be applied in relation to the revised scheme where necessary, with all extant conditions still standing. A number of these were pre-commencement conditions and these were discharged prior to work commencing in 2015. The conditions will be updated at the end of this report.

5.0 Description of site

The application is located at the junction of Fore Street and West Street to the south of the city and within the Central Conservation Area.

There are two distinct parts of the building, fronting Fore Street and West Street respectively.

The Fore Street element is a three/four storey building that includes a retail floor on the ground floor (fronting Fore Street) with residential flats above. This element is relatively unaffected by this amended scheme, with ground and first floor aspects remaining as previously approved.

West Street declines in an eastern direction and is set below Fore Street. The current lower-ground floor level is in use as a coffee shop and storage areas in connection with retail.

The site is relatively screened from approach to the north and south from Fore Street, however there are key viewpoints from Bartholomew Street to the west and West Street to the East, as well as a number of listed buildings including The House That Moved and St Mary's Church Steps.

The site has an extant planning approval, [12/1426/FUL](#), for conversion of the building to residential consisting of 13 flats with an upwards extension of two storeys on the West Street Element. This application has lawfully commenced, however no external works have occurred at this time.

6.0 Description of development

Variation of Condition 2 (approved drawings) of approval [12/1426/FUL](#) (Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities) to alter the height and internal layouts.

This revision seeks to retain commercial uses of the lower-ground floor on West Street through creation of 3 small units. This will see the loss of two flats in this area and the creation of a new bin store.

To mitigate for the loss of the flats there is proposed to be an upward extension, expanding the second floor level and adding a new third floor level.

7.0 Supporting information provided by applicant

- Design and Access Statement 2189DAS dated 16 May 2023.
- Decision Notice [14/1741/DIS](#) relating to approval [12/1426/FUL](#)
- Acoustic Advice Report by ACT Acoustics dated 25 July 2023
- 2189-4-7A - Site Plan Daylight Assessment
- 2189-4-7A - Site Plan Daylight Assessment
- 2189-4-8-5-2 - Section CC Overshadowing of No.6 West Street
- Agent Comments on overshadowing and privacy dated 01 August 2023

8.0 Relevant planning history

Reference	Proposal	Decision	Decision Date
23/0631/VOC	Variation of Condition 2 (approved drawings) of approval 12/1426/FUL (Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities) to alter the height and internal layouts	PCO	
14/1741/DIS	Discharge of Conditions 3, 4, 7, 9, 10 & 11 of planning permission 12/1426/03	PER	22.01.2015

granted on 14 February 2013.

12/1426/FUL	Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities	PER	14.02.2013
05/0628/FUL	Alterations to roof to provide self-contained flat	PER	23.06.2005
03/0781/FUL	Partial change of use from storage (Class B8) to retail (Class A1) on ground floor and alterations	PER	16.06.2003
98/0254/TEL	Telecommunications cabinet	PER	16.03.1998
95/0825/FUL	Change of use from retail to sales/Auction rooms (ground floor and basement)	WDN	15.11.1996
95/0065/ADV	Internally illuminated fascia and projecting sign	PER	07.04.1995
94/0235/FUL	Change of use from offices and storage to retail and storage on basement and ground floor and two flats on first and second floors	PER	25.05.1994

9.0 List of constraints

The site is located within the Central Conservation Area and there are a number of listed buildings in the surrounding area. It is also within an Area of Archaeological Importance.

10.0 Consultations

All consultee responses can be viewed in full on the Council's website.

Devon and Somerset Fire and Rescue – The proposal would appear to meet their access requirements under Building Regulations. Full comments will be dealt with at building regulations stage.

RSPB – Advised that their original comments still stand, as required by Condition 10, for bird and swift boxes.

DCC Highways – The proposal will retain the same number of units and will continue to be considered car free development. The altered bin stores may see additional refuse collections, but this will not create significant highway safety issues.

DCC Waste Planning – Note that the original proposal didn't have a waste audit statement and request one as part of this application as the proposal may alter the levels of waste produced.

ECC Environmental Health – Originally raised objections over impacts from the new commercial units on adjoining flats. An acoustic survey was submitted and the objection was withdrawn subject to a condition for the installation of protection measures prior to first occupation.

Designing Out Crime Officer – Requested conditions relating to access doors, prevention of unauthorised access, CCTV and locks for doors, bin and bike stores.

11.0 Representations

139 objections have been received in relation to this proposal, raising the following concerns:

- Proposal will have negative impact on this area of the city
- Original approval expired in 2015 so questions over validity of this variation application.
- Change of roof level will dramatically alter the character of West Street.
- Impact on surrounding listed buildings and unique architecture such as The House That Moved, St Mary Steps Church, The Matthew The Miller Clock.
- Detrimental to local business through division of current two commercial units at basement level between three units.
- Reduction in viable commercial space.
- Proposed units are not fit for purpose of current leaseholders.
- Already too many vacant commercial units in the area and these existing tenants should be retained.

- Existing coffee shop is important community hub and brings people to this area of Fore Street.
- Conservation Area should be protected rather than overdeveloped.
- Development will harm the Conservation Area.
- Height will be disproportionate to surrounding buildings.
- Loss of light and privacy to buildings opposite.
- Huge disruption to small one-way street that has limited access and is already congested.
- Proposed small commercial units have limited uses compared to the larger adaptable spaces.
- No affordable housing proposed.
- Will drive up rent and house prices in the area.
- Transport links should be priority over this type of development.
- West Street will become an 'overbearing' street.
- Units are not big enough for current occupants of commercial units.
- No substantial works have started to commence the original application.
- Fundamental transformation of the 'look' of West Street, which is a treasured local landmark.
- Homogenisation of building facades.
- Height does not match those of buildings opposite on West Street.
- Erasing of local character.
- View up West Street and Stepcote Hill will be ruined.
- Out of character with the location it is in.
- Proposal will not solve the housing crisis through this one development.
- Focus should be on homelessness and drug use solutions instead.
- Gentrification of the area.
- Fore Street is currently one of the best parts of Exeter and should be protected.
- Light assessment should be submitted to assess impacts.
- City does not need more student accommodation.
- Building work would cause huge disruption to the surrounding area.
- Already too many developments occurring in Exeter.
- Loss of nests for swifts during the summer.
- Development work will impact on Fore Street Flea markets.
- Noise disruption from more residents in the area.
- No guarantee existing businesses will remain on site.
- Plans do not consider loading/unloading
- Proposal will not stop residents owning cars
- Fore Street already has significant problems with seagulls ripping open waste before collection and this will increase with the additional waste created by this proposal.
- Surrounding area has already been harmed by student accommodation, loss of theatre/community space and other redevelopments.
- The street is already dark and the development will make it darker.
- Bin stores are inadequate.
- Strain on local infrastructure through increase in residential properties.

- Other locations would be better suited to this development such as Marsh Barton.
- Proposal contributes to reputation of Exeter being undesirable place containing bland corporate High Street and too many new student flats.
- Policy of ECC is to promote diversity of small businesses in the Fore Street area.
- Students and wealthy are being prioritised over middle and working-class residents.
- Potential damage to nearby listed buildings due to their age and possible fragility.
- Fore Street already struggles with effective water and sewer services including leaks and blockages.
- Bus services are very noisy here and 13 extra dwellings would add to noisy, heavy buses.
- Consultation with local residents and businesses should be done.

12.0 Relevant policies

Development Plan

The National Planning Policy Framework (2021)

5. Delivering a sufficient supply of homes which meet the needs of groups with specific housing requirements

7. Requiring good design

12. Conserving and enhancing the historic environment

Exeter Core Strategy (adopted February 2012)

CP1 - Spatial Strategy

CP3 – Housing

CP4 – Density

CP5 – Meeting Housing Needs

CP7 – Affordable Housing

CP8 - Retail

CP11 – Pollution

CP12 – Flood Risk

CP15 – Sustainable Construction

CP17 – Design and Local Distinctiveness

CP18 - Infrastructure

Exeter Local Plan First Review 1995-2011

AP1 - Design and Location of Development

AP2 - Sequential Approach

H1 - Search Sequence

H2 - Location Priorities
H5 - Diversity of Housing
E3 – Protection of business and employment opportunities
S1 – Retail site selection
S3 – Retail Development
S5 - Food and drink impacts
T1 - Hierarchy of Mode
T2 - Accessibility Criteria
T3 - Encouraging the Use of Sustainable Modes
T10 - Car Parking Standards
C1 – Development in Conservation Areas
EN2 - Contaminated Land
EN5 – Noise
DG1 - Objectives of Urban Design
DG2 - Energy Conservation
DG7 - Crime Prevention and Safety

Other material considerations

Residential Design Guide SPD
Sustainable Transport SPD
Central Conservation Area Appraisal and Management Plan
National Design Guide

13.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

The consideration of the application in accordance with Council procedures will ensure that views of all those interested are considered. All comments from interested parties have been considered and reported within this report in summary with full text available via the Council's website.

It is acknowledged that there are certain properties where they may be some impact. However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the city and wider area and is proportionate given the overall benefits of the scheme in terms of

provision of housing on this location and the balance of impacts in comparison with the extant permission on the site.

Any interference with property rights is in the public interest and in accordance with the Town and Country planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

14.0 Public sector equalities duty

As set out in the Equality Act 2010, all public bodies, in discharging their functions must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

15.0 Financial issues

The requirements to set out the financial benefits arising from a planning application is set out in s155 of the Housing and Planning Act 2016. This requires that local planning authorities include financial benefits in each report which is:-

- a) made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission; and

- b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2) of the Town and Country Planning Act 1990.

The information or financial benefits must include a list of local financial considerations or benefits of a development which officers consider are likely to be obtained by the authority if the development is carried out including their value if known and should include whether the officer considers these to be material or not material.

As this is a variation to the original approval the existing S106 Agreement will continue to stand. The only obligation of this requirement is for financial mitigation of £350 per dwelling (index linked) as a contribution for mitigation for impacts on the Dawlish Warren Special Area of Conservation and the Exe Estuary Special Protection Area.

Non material considerations

CIL contributions

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable for any increased residential floor space provision when compared to the original approval.

The proposal will generate Council Tax and Business rates

16.0 Planning assessment

Principle of Development

The approval of the original scheme was in January 2013 and it has been confirmed that the development lawful commenced within 3 years of the decision date.

This was confirmed in email by the relevant planning officer at the time by email on 18 February 2015 stating that the foundations of the bin store have been undertaken and this constitutes commencement of development. Further information was submitted during the application process containing a copy of a Building Regulations application and a Building Regulations Approval Notice and an email confirming the works in relation to the bin store.

This application is to vary a condition of approval 12/1426/FUL through the process set out in Section 73 of the Town and Country Planning Act 1990 which allows for material amendments to the scheme. This amendment will see retention of the

ground floor commercial units (which were previously to be replaced with dwellings) and an additional upward extension of one storey to that previously approved.

As this application is a variation to the approved details it can only focus on the altered aspects. As such, a lot of the aspects raised in objections cannot be considered as part of this assessment.

For example the impact on the existing ground floor coffee shop and roasters cannot be considered as the extant permission is approved with them being removed completely, so that aspect has already been agreed.

However, the noise impacts of retained commercial units on the ground floor on the flats above has not been considered as this is a new addition to the scheme and the potential amenity impacts must be assessed.

The relevant aspects of the revised scheme will be set out in the report below, however previously approved areas that are not being altered will not be discussed.

The site itself has multiple floors and uses, fronts two different streets at different levels and will see new floor levels inserted. It is therefore considered beneficial at this stage to set out the current use, the 12/0426/FUL approval and this proposal for clarity:

Area	Existing	Approved 12/1426	Proposed
Lower-Lower Ground Floor	Single basement level relating to commercial use. Currently in use as coffee shop.	No.2 dwellings (connected to LGF) and no.1 dwelling	No.3 retail/office units (connected to LGF) and no.1 dwelling
Upper-Lower Ground Floor	Single basement level relating to commercial use. Currently in use as coffee shop	No.2 dwellings (connected to LGF) and no.1 dwelling	No.3 Retail/office units (connected to LGF) and no.1 dwelling
Ground Floor	Commercial and associated storage/offices	No.3 flats. Commercial unit facing Fore Street retained.	No.3 flats Commercial unit facing Fore Street retained. (no change to approval)
Lower-First Floor	Existing flat (being retained) No first floor level exists on West Street elevation.	No.3 flats	No.3 flats (No change to approval)
Upper-First Floor	Existing flat (being retained). No first floor level exists on West Street elevation.	No.2 flats and communal roof garden	No.2 Flats and communal roof garden (no change to approval)

Second Floor	No second floor level exists on West Street elevation.	No.1 flat and private roof garden	No.2 flats
Third Floor	No third floor level exists on West Street elevation.	No third floor level exists on West Street elevation.	No.1 flat and private roof garden

Lower-lower ground floor and upper-lower ground floors

Commercial Use

It is proposed to retain commercial uses on the lower-lower ground floor level, fronting West Street, rather than seeing them lost as part of the conversion to dwellings as previously approved.

As set out earlier in this report, whilst there may be an impact on the existing businesses fronting West Street the original approval was for their removal. The retention of commercial units in this area is therefore a new addition and is welcomed to help to support the wider Fore Street shopping area in accordance with policies S3 of the Local Plan and CP8 of the Core Strategy.

There will be 3 commercial units on the upper-lower ground fronting West Street. Two on the western side and one on the eastern side separated by the access corridor to the flats

The two western units are remaining at their existing width, with a reduction in length to accommodate the bike store behind. The eastern unit will be reduced in size to accommodate the access corridor and domestic bin store. All units will have a new lower-lower ground floor space created as part of this development creating total floor spaces of 60.2sqm, 51.1sqm, and 48.3sqm compared to existing areas of 63.25sqm, 29.6sqm and 59.5sqm. There is therefore an improvement to overall floorspace provision through this development, as well as removal of internal walls to open up the usable space further.

Externally, the West Street elevation will see new glazing installed to create entrance to each of the commercial units and the flats. These will see glazed entrance introduced that are considered to be suitable for the character of the building and will provide active frontages to the units.

All units will be Class E, which is considered to be town centre appropriate uses, however it should be noted that as commercial units were not previously being retained there is now the risk of noise or other amenity impacts to the accommodation above. An acoustic survey was submitted which set out measures that would limit impacts on occupants and this was found by Environmental Health to be acceptable. A condition is recommended for these measures to be installed and tested for compliance prior to first occupation of the relevant flats.

Due to the location within the secondary shopping area a further condition has been added restricting permitted development and prior approval changes of use from commercial to other uses. This is to ensure the secondary shopping area is retained where possible and to ensure any conversions to other uses are acceptable considering the location and dwellings above.

Bin Stores

The original residential bin store location was within the upper-lower ground floor level (accessing onto West Street) in the site of where the western commercial unit now sits.

The residential bin store will now utilise an area previously noted as 'general store', located adjacent to the central access corridor and the eastern commercial unit. This store is considered to be of suitable size and is acceptable.

As commercial units are now proposed an additional commercial bin store is required. This is proposed to be situated in the south-west corner in between the public stairs leading from West Street to Fore Street. This area is currently in use as bin store for the ground floor commercial units and this proposal will see improvements and screening to ensure it is suitable for the Conservation Area setting. The final design of this will be dealt with via condition to ensure it is appropriate.

Ground Floor, Lower-First Floor, Upper-First Floor

The ground floor will see the commercial unit fronting Fore Street retained, with 3 flats created fronting West Street.

An upward extension has been approved here which, due to high floor levels of the existing ground floor area combined with the upward extension sees them labelled as lower-first floor and upper-first floor. Three flats are proposed on the lower-first floor, with 2 flats proposed on the upper-first floor with a shared roof garden created.

All of these aspects are remaining as approved under 12/1426/FUL and as such no alterations can be required to the agreed details as they have been considered acceptable and still form part of a live permission.

Second Floor

The second floor was original approved as a single flat with a private roof garden area. This will now be two 1-bed dwellings, both of which meet the Nationally Described Space Standards.

The second floor will see the southern elevation extended further south than previously approved by 1.25 metres. Whilst this is closer to dwellings across the road on West Street, the properties on West Street are three stories in height and will

directly face towards the ground and lower-first floor elements previously approved. The alterations to the second floor are not considered to significantly change the dominance of the previously approved second floor element or the light levels to the properties.

The design is in keeping with the lower floors and of the previously approved scheme and will sit in line with the existing elevation of the existing Fore Street aspect.

Third Floor

A new third floor element is proposed, which will contain one 2-bed dwelling with a private balcony and roof terrace. It will be set back from West Street by approximately 1.25 metres.

The Council's Urban Designer was consulted on the proposal and raised no objections to this additional storey.

The additional height increase is considered to be acceptable in the city centre context, with the ridgeline of the retained building to west being maintained as the tallest part of the development and providing a level of screening of the new when viewed from the west.

From the east the additional storey will not be highly visible, being partially obscured by 'The House That Moved' and St Mary Church. The second and third floor elements are also set in from the eastern site boundary (due to the shared roof terrace at upper-first floor level), limiting the dominance in this direction.

There is not considered to be any significant loss of daylight, privacy or other amenity impacts, with these coming from the lower floors of the extant approval.

Amenity Impacts

Whilst amenity impacts have been set out above, it is considered that due to the nature of this application it would be beneficial to set the amenity considerations out in this area as concerns were raised regarding overshadowing, loss of light and privacy impacts from the new development.

It is considered that the majority of amenity impacts to properties on West Street are caused by the ground, lower-first and upper-first floors, which will see windows facing directly across West Street. These aspects are not being revised as part of this application and it would therefore not be possible to require any further revisions to these.

Overlooking

Whilst there is an upward extension of a new third floor and an extension to the second floor, these are in a position that will sit above properties on

West Street and would not create any significant privacy impacts to occupants living opposite.

The applicant submitted a statement and drawings regarding the privacy impacts windows, noting that the primary impacts are on no.6 West Street, above 'Darn Good'. It is considered by the assessing Officer that no.8, and to a lesser extent no.10 should also be taken into account as they are opposite the site. Other properties on West Street directly facing the site have covered windows as demonstrated by submitted photos and a site visit.

The submitted privacy drawings set out that due to the positioning of the development and window angles, it is the ground and upper-first and lower-first floor dwellings that will create the impact, which do not form part of this revision application.

Whilst there is a level of impact from the second floor dwellings, the submitted drawings compare this to the previously approved second floor dwelling position and it is considered that there is not a significant increase on privacy harm in comparison to the extant approval, with the majority of impacts from lower levels.

The third floor dwelling will only see a very small level of overlooking possible from the private roof garden, which would be less than that of any of the other lower floors.

Daylight

Daylight plans were submitted by the applicant during the assessment, showing the impact in comparison between the approved scheme and this proposal. These drawings set out that the difference between the two schemes is relatively small and would not be considered significant enough to warrant a refusal on these grounds.

A sun path was submitted and showed that apart from a very small period at the summer equinox there is little sunlight entering the windows of no.6 West Street (the potentially worst affected), with this being over the proposed roof garden area, as previously approved.

In terms of views of the sky it was demonstrated that a level of 230mm would be impacted at floor level of the second floor of no.6 West Street and this is considered to be a relatively low level and not significant to warrant a refusal on these grounds.

Amenity conclusions

The majority of impacts is generated by the previously approved upward extension at second floor level and the additional floor is not considered to significantly impact on the previously approved levels.

On balance it is considered that the upward extension is acceptable in this instance due to the positioning, topography, design, surrounding built form and the existing planning permission and there are not be significant enough amenity impacts generated by this proposal to warrant a refusal.

Historic Setting and Visual Impacts

Design

The existing property of 130 Fore Street is noted in the Central Conservation Area Appraisal and Management Plan (CAAMP) as being a 'pale imitation of the ornate Victoria Building that it replaced' with the garage buildings below as 'an eyesore ripe for development'.

The amendments will see the existing basement level improved with clear active frontages installed that reflect the design of the approved upper floors and the existing building.

The second storey adjustment will match the design of the approved ground and first floor designs and is therefore acceptable in line with their approval. The third floor design is similar to that of the previously approved second floor aspect (now becoming this third floor aspect). It is set back from the southern elevation and will not be readily visible from the wider area due to the surrounding built form.

Comments have been received in relation to the third floor roof design, which dips in the central area. This is very similar to that on the extant scheme and will help to reduce massing in this area.

The proposed materials for the building including external elevations, windows/doors, rainwater goods etc. are as previously agreed and the details of them approved through condition discharge approval 14/1741/DIS. As these have been previously agreed the continued use of them is therefore considered to be acceptable in this instance.

Massing

Whilst the proposal will see an additional storey added to the building, the primary built form is as previously approved and as such the impact on the Central Conservation is limited solely to the amendments as part of this scheme.

The site is screened from a number of directions by the existing Fore Street facing building as well as other structures on the approach from the south of Fore Street and from West Street to the east, however it is noted that there are still key views from the south-east and south-west sides that need to be considered

To the east the site is visible from Bartholomew Street West, however the majority of the upward massing increase is already approved. The extensions follow the building line of the existing building and whilst it is creating an addition to the skyline from this viewpoint it is not considered that the additional upward extension create a significantly large or visually harmful intrusion.

To the south-east a number of views are obscured by topography and the rear of dwellings on West Street, as well as the church tower of St Mary Steps Church. It is however noted that there is a clear viewpoint between the church and The House That Moved. From this viewpoint the new extension will be visible, however it follows the built form and steps downwards from third floor to upper-first floor roof garden and is not in a raised position that will sit above either of these buildings and will not detract from their important positions at the end of West Street, their wider visual settings and that of the Central Conservation Area.

Comments raised views from Stepcote Hill, however the built form in this area alongside the rising topography prevents clear views of the application site from the public areas.

Heritage and Visual Conclusions

It is considered that, on balance, the amendments will not create significant visual harm to the Conservation Area, other heritage assets or surrounding built form when compared to the extant approval.

Highway Considerations

In terms of Highway considerations the original proposal was considered car-free development and this has not been altered by this proposal, with the number of flats being retained as previously approved.

Bike storage is also provided and remains as previously approved on the upper-lower ground floor level (West Street level).

The Local Highway Authority were consulted on the proposal and raised no objections to the scheme on those grounds.

Conditions on 12/1426/FUL

There are a number of conditions on the extant planning permission 12/1426/FUL. These were pre-commencement and a condition discharge was submitted and agreed under 14/1741/DIS. These conditions will be restated on the decision notice with the relevant approval details referenced out within them.

These include a Construction Environment Management Plan (CEMP), which aims to limit the impact of construction on the surrounding area. The condition for this has already been discharged, however the applicant has been advised that if they wish to change from the approved CEMP then a new condition discharge application will be required.

Conditions can only be applied in relation to the revised scheme where necessary, with all extant conditions still standing. A number of these were pre-commencement conditions and these were discharged prior to work commencing in 2015. The conditions will be updated at the end of this report.

17.0 Conclusion

This proposal will see an additional storey added to the existing approval alongside retention of commercial units at lower-ground floor levels. The retention of the

commercial units is welcomed to support Fore Street and the additional height, due to the topography and surrounding built form, is not considered to generate any significant visual or heritage impacts.

Whilst concerns have been raised in relation to privacy and light it is considered that the primary privacy and massing impacts will be from the already approved scheme which will face directly towards properties on West Street. The revisions to the second floor level and the additional third floor are not considered to generate any significant amenity impacts on neighbouring properties that would warrant a refusal on those grounds.

It is therefore concluded that the proposed variations to the approved plans are acceptable.

18.0 Recommendation

GRANT permission subject to the following conditions:

Conditions

Conditions

Condition: Approved Plans

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority as follows:

- 1598-0 Site Location Plan
- 2189-4-7 Site Plan (April 2023)
- 2189-4-5-2A Lower-Lower Ground Floor Plan (April 2023)
- 2189-4-5.1A Upper-Lower Ground Floor Plan (April 2023)
- 1598-3.0A Ground Floor Plan (September 2011)
- 1598-3.1.1A Lower First Floor Plan (September 2011)
- 1598-3.1.2A Upper First Floor Plan (September 2011)
- 2189-4-2 Second Floor Plan (April 2023)
- 2189-4-3A Third Floor Plan (April 2023)
- 2189-4-6 Roof Plan (April 2023)
- 2189-4-8.1 Section B-B, C-C, D-D (May 2023)
- 2189-4-8.2 Section A-A (May 2023)
- 2189-4-8.3 Section E-E (May 2023)
- 2189-4-8.4 Section F-F (May 2023)
- 2189-4-9.1 NE and SE Elevations (May 2023)
- 2189-4-9.2A Elevation to West Street (April 2023)

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

Ecological Surveys

Pre-roof works

Prior to any works impacting on the roof of the existing building a walk-over survey shall be undertaken to assess roosts, nesting or other ecological activity including details of mitigation required and the results submitted and approved in writing by the Local Planning Authority.

The development shall be undertaken in accordance with the approved details at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure ecological protection for any roosting or nesting creatures in the roofspace.

Travel Pack

Pre-Occupation

No dwelling within the development hereby approved shall be occupied until all residents have been issued with a Green Travel Pack to inform them they will not qualify for on-street parking permits and shall include the locations, routes and times of public transport services, the locations of walking and cycle routes, central shopping and leisure facilities in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and shall be updated annually.

Reason: To ensure that all residents are aware of the 'car free' status of development.

Cycle Storage

Pre-Occupation

No dwelling within the development hereby approved shall be occupied, secure cycle parking shall be provided in location shown on drawing 2189-4-5.1A Upper-Lower Ground Floor Plan in accordance with details previously submitted to and approved in writing by the Local Planning Authority, and the cycle parking area shall be maintained solely for that use only at all times thereafter.

Reason: To ensure that cycle parking is provided, to encourage travel by sustainable means

Bat and Swift Boxes

Pre-Occupation

No dwelling within the development hereby approved shall be occupied until bat and swift boxes have been installed in accordance with the details approved under condition discharge decision 14/171/DIS.

Reason: To ensure that the wildlife opportunities associated with the site are maximised in the interests of biodiversity in the locality.

Commercial Bin Store

Pre-Occupation

Prior to first occupation of the dwellings hereby approved details of the proposed commercial bin store at upper-lower ground floor level shown on the approved plans, including design and materials, shall be submitted to and approved in writing by the Local Planning Authority.

The proposed bin store shall be installed in accordance with the approved details prior to first occupation of any of the dwellings and retained solely for that use at all times thereafter.

Reason: To ensure suitable bin storage for the commercial units to prevent residential harm and to ensure suitable design for location within a Conservation Area.

Pre-Occupation

The sound insulation measures set out in the submitted Acoustic Design Statement (25 July 2023) shall be implemented in full and testing in accordance with the recommendations set out in the submitted Sound Insulation Testing Methodology (received 22 August 2023).

No lower-ground or ground floor property shall be occupied until the results of the testing have been submitted to and approved in writing by the Local Planning Authority. The sound insulation measures shall be retained at all times thereafter.

Reason: To protect the amenity of future residents from noise generated by the commercial units.

Bin Store

Pre-Occupation/Use

No dwelling within the development hereby approved shall be occupied until a refuse bin storage management strategy plan has been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the details agreed at all times thereafter.

Reason: In the interests of residential amenity.

Archaeological Investigation

The development shall be undertaken in full compliance with the Written Scheme of Archaeological Work approved under condition discharge decision 14/1741/DIS, 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.

Materials

The external materials used on the development hereby approved shall accord with the details set out on submitted drawings 2189-4-9.1 NE and SE Elevations 2189-4-9.2A Elevation to West Street and the details approved under condition discharge approval 14/1741/DIS.

Reason: To ensure that the materials conform with the visual amenity requirements of the area.

Window, Door and Balcony Details

The following aspects shall be delivered in accordance with the details approved under condition discharge approval 14/1741/DIS:

- a) windows to include materials, means of opening, reveals, cills and headers;
- b) external doors;
- c) rainwater goods;
- d) lighting;
- e) treatment of balcony;
- f) means of enclosure at first floor level;
- h) location of site compound

Reason: interests of visual amenity.

Demolition and Construction Method Statement

The development shall be undertaken in accordance with the Demolition and Construction Method Statement details approved under condition discharge 14/1741/DIS at all times during the development work.

Reason: In the interests of public safety and to ensure that adequate on-site facilities are available throughout the development period.

Hours of Construction

Construction work shall not take place outside the following times; 8am to 6pm (Mondays to Fridays); 8am to 1pm (Saturdays); nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity.

Commercial Units Use

The commercial units hereby approved shall operate only within Class E of the Town and Country Planning (Use Classes) Order 1987, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 at all times.

Reason: In the interest of protecting the secondary shopping area and protecting the amenity of occupants.

Removal of Permitted Development

Notwithstanding the provisions of Article 3 and Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no change of use of the commercial units, other than within Class E of the Town and Country Planning (Use Classes) Order 1987, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, including through the prior approval process and temporary uses, shall occur at any time..

Reason:

In order to protect the secondary shopping area and ensure any residential development is in appropriate location and design

Informatives

Informative: Pro-active working

In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

Informative: CIL

The Local Planning Authority considers that this development will likely be CIL (Community Infrastructure Levy) liable

Informative: Commercial Units

Signage for the lower-ground flood commercial units has not been included as part of this application and separate advertisement consent will be required from the Local Planning Authority for any proposed signage prior to installation.