

## PLANNING COMMITTEE

Monday 25 March 2024

### Present:-

Councillor Knott (Chair)

Councillors Asvachin, Begley, Bennett, Jobson, Ketchin, Miller, Mitchell, M, Patrick, Sheridan, Vizard, Wardle, Warwick and Williams, M

### Also Present

Director of City Development, Service Lead City Development and Democratic Services Officer (PMD)

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### MINUTES

The minutes of the meeting held on 19 February 2024 were taken as read, approved and signed by the Chair as correct.

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### DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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### PLANNING APPLICATION NO. 22-1548-FUL EXELAND HOUSE, TUDOR STREET, EXETER, EX4 3BR

The Service Lead - City Development presented the application for Renovation, conversion and change of use from retail unit and office to form a co-living scheme of thirty-four units including communal facilities and a co-working office space, front extension with four floors, link building, public plaza on the existing car park and renovation of existing bridge link to New Bridge Street, reminding Members of the context, namely that:-

- the Committee had approved the application on 25 January 2024;-
- after the Committee's decision, the Environment Agency withdrew its initial objection;
- communication had been received from the owner of a neighbouring site, expressing an ambition to develop their property and highlighting potential impacts of the Exeland House development on their future proposal, specifically regarding access, light, and the potential for construction disruption;
- at the January 2024 planning committee discussions, a pre-application enquiry for The Old Vic (submitted in early 2023, with feedback provided in April 2023) was not mentioned, leading to concerns from the Old Vic's representatives about the comprehensive consideration of material factors in the decision-making process; and
- further correspondence had been received – and responded to – from Ward Councillor Tess Read and from Expedite Planning Ltd, representing their client, Mr Will Miles.

He urged Members to focus on the issue at hand concerning recent correspondence rather than purely what had already been covered in January. He further advised that:-

- the contention from the owner of the neighbouring plot was disputed by

- planning officers;
- design solutions could be invited to mitigate;
- the solution proposed by the owner of the neighbouring plot had been deemed unnecessary by officers, who added that reconfiguration would cause its own problems; and
- throughout negotiations with Historic England, there had been no way of knowing that there would be objections for the neighbouring plot owners.

The Service Lead - City Development answered queries from Members as follows:-

- Historic England had not been asked about the proposal from the owner of the neighbouring plot to move the building;
- as far as he knew, the adjacent building wasn't listed; and
- any development on the Old Vic site would have to take neighbouring buildings into consideration.

Although not objecting to the application per se, Mr Will Miles, co-owner of the neighbouring site, had registered to speak; he made the following points:-

- he was surprised when he found out about the Exeland development;
- the Old Vic was quite clearly a brownfield site that needed developing;
- the advice he had been given was to submit a pre-application enquiry as a matter of urgency;
- his site and the site of the proposed Exeland development were the last two sites on the street that had not yet been developed; and
- he felt that he and the applicant could reach a better outcome by working together as neighbours.

Mr Miles responded as follows to queries from Members:-

- he had not had any direct dealings with the applicant;
- he had not received any correspondence from the Council and only found out about the Exeland application via a public note;
- during the consultation, he had declared himself as "neutral";
- he felt that a couple of months would be enough to reach out to the applicant and agree on a workable solution for both parties;
- all bedroom windows in the Exeland development would overlook his site;
- he recognised that the Exeland site would need to be developed; and
- there had been a breakdown in communication.

The Service Lead - City Development clarified the Council's process for engaging with the occupants of addresses of the adjoining sites, advising that the Council would write to them more than once and that letters went to the address on the street. He also confirmed that the issue of access and right of way had been covered at the January meeting.

The Director City Development made the following concluding points:-

- while it was unfortunate that there had been no dialogue between the applicant and the owners of the Old Vic site, the Council could only encourage dialogue, not enforce it;
- the Council could, however, acknowledge concerns from the owners of an adjoining piece of land;
- pre-applications were not necessarily in the public domain;
- clarity had been provided by the Environment Agency; and
- the purpose of the present meeting was to give the owner of a neighbouring site an opportunity to voice their concerns and/or objections.

During debate, several Members expressed the following views:-

- the situation in which the Old Vic site owners found themselves was unfortunate and, therefore, in the interest of natural justice, additional time should be allowed for the owners of the neighbouring sites to make contact and reach a compromise;
- the public speaker had made it clear at the present meeting that he wanted to a dialogue with the applicant; and
- it was regrettable that no representative from the developers had requested to attend the present meeting.

Conversely, several Members made the following remarks:-

- it would be inappropriate to do anything other than uphold the decision from the January meeting;
- there had been ample time since February 2023 for the owners of the Old Vic site to actively seek to make contact with the applicant;
- opportunities had been missed - by both parties – to make contact;
- there was a risk of setting a precedent, when the correct procedure had been followed throughout;
- the Environment Agency had withdrawn its original objection; and
- it was unclear what pausing the process would entail.

The Chair commented as follows:-

- the role of the Planning Committee was to look at long-term planning;
- the Committee hadn't seen the application from the owners of the Old Vic site; and
- the alternative proposal was anything but a mere tweak.

Having received clarification from the Director City Development on procedural matters, Councillor Jobson proposed the following alternative recommendation:

*“That the matter be deferred until the next meeting of the Planning Committee to enable the applicant and the respondent present at the current meeting to discuss the application if they so wish.”*

Speaking in favour of the alternative recommendation, Councillor Mitchell made the following comments:-

- two weeks would be sufficient to establish whether contact could be made between the applicant and the owners of the Old Vic site; and
- new information had come in since the January meeting of the Planning Committee.

Members speaking against the alternative recommendation commented as follows:-

- the opportunity to make contact had been there throughout the process;
- not upholding the original decision would leave the Committee vulnerable to further proceedings;
- no material plans had been provided by the owners of the Old Vic site;
- natural justice was not a matter for the Planning Committee; and
- due process had been observed all along.

Councillor Jobson moved, and Councillor Sheridan seconded, the alternative recommendation which was voted upon and DEFEATED.

The Chair moved the substantive recommendation for approval which was seconded by the Deputy Chair, voted upon and CARRIED.

**RESOLVED** that the Planning Committee:

- a) note the withdrawal of the Environment Agency's objection and the recommended conditions to mitigate flood risk;
- b) considers the communication from the neighbouring site owner as a material consideration, acknowledging the potential for future development and its implications.
- c) delegates to the service lead (city development) to grant permission subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:-

- On-site Affordable Housing at 20 per cent for Build-to-Rent;
- £18,240 for local GP surgeries expansion;
- A Management Plan (Co-living) to include details of tenant vetting and on-site management;
- Pedestrian rights of way across the approved Plaza;
- £5,000 towards the implementation of the Devon County Council; and
- Exeter Local Cycling and Walking Infrastructure Plan.

as well as the conditions (and their reasons) as set out in the report.

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

The report of the City Development Manager was submitted.

**RESOLVED** that the report be noted.

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#### **APPEALS REPORT**

Councillor Vizard noted that, under 3.2 (23/0533/FUL - Stoneycombe, Matford Road, Alphington), reference was made to the "St Leonards Conservation Area" when it should have read "Alphington Conservation Area". This would be rectified accordingly.

**RESOLVED** that the schedule of appeal decisions and appeals lodged be noted.

(The meeting commenced at 5.30 pm and closed at 6.20 pm)

Chair