

PLANNING COMMITTEE

Monday 27 January 2025

Present:-

Councillor Knott (Chair)

Councillors Patrick, Asvachin, Atkinson, Banyard, Bennett, Hussain, Jobson, Ketchin, Miller-Boam, Mitchell, M, Pole and Rolstone

Also present:

Councillor Moore (speaking under Standing Order No.44);

Councillor Read (speaking under Standing Order No.44); and

Councillor R. Williams (speaking under Standing Order No.44)

Also Present

Strategic Director for Place, Planning Solicitor, Principal Project Manager (Development) (HS) and Democratic Services Manager.

7

MINUTES

The minutes of the meeting held on 16 December 2024 were taken as read, approved and signed by the Chair as a true and accurate record.

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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PLANNING APPLICATION NO. 23/1007/OUT - WATER LANE (SOUTH), EXETER, EX2 8BZ

The Principal Project Manager (Development) presented the application for the demolition of existing buildings and structures and residential-led mixed use development providing new dwellings and workspace, retail, café/restaurant, community and cultural/leisure/education/hotel uses and associated infrastructure, including vehicular access, servicing, mobility hub, energy plant; alteration of ground levels; drainage and public open space; landscaping and public realm works; including pedestrian and cycle routes, with all matters reserved for future considerations, with the exception of access.

He referred Members to the update sheet and advised on the recent additional correspondence including:-

- Councillors Moore and Read, who were speaking at the meeting;
- Devon County Council;
- RDUH NHS Trust;
- ECC Environmental Health;
- additional correspondence from the Exeter Civic Society, who were speaking at the meeting; and
- a representation from a member of the public concerned with traffic congestion.

Members received a presentation which included:-

- site location plans;
- aerial view;

- various site location photographs;
- Liveable Water Lane Supplementary Planning Document (SPD);
- Water Lane SPD plans;
- Water Lane SPD regulating plans;
- proposal overview;
- application supporting documents;
- parameter plans for demolition and retention, access, building heights, uses, infrastructure and framework;
- tan lane access plan;
- key issues;
- flood risk assessment;
- future flood access options;
- contaminated land, air quality and noise;
- rerouting the high-pressure gas main;
- tree, ecology and biodiversity;
- parameter plan;
- impact visualisations for landscape and townscape;
- illustrative layout and plan;
- illustrative views and plans;
- illustrative phasing plan;
- conclusions; and
- officer recommendation

The Principal Project Manager (Development) responded to questions from Members as follows:-

- the development wasn't securing policy compliant affordable housing, but would be eligible to other affordable housing funding sources;
- parameters plans, which include building heights, limited the permission;
- only access was being considered in detail at the current stage, with layout, scale, massing, and design being reserved matters for future applications;
- the potential mix of PBSA and commercial development, there were conditions which set limits on the amount of residential, PBSA housing and other uses based on impact assessments;
- it was envisaged that infrastructure and access infrastructure, were secured by conditions and would be delivered in phase one. Any changes to the phasing, would require approval;
- building plots would be delivered individually through various phases;
- the ecology of the canal was sensitive to lighting, and as such there was a condition for the control of external lighting and automatic shutters for internal building lights;
- the ratio of S106 payments for education and healthcare provision was on a per person or dwelling basis and formulas to proportionate various uses would be contained within the S106;
- the site had its own energy own proposed network and there would be a requirement to endeavour to connect to the energy from waste plant;
- the S106 contributions needed to relate to the development and application site ;
- there was no land was being provided within the site for education, only a financial contribution towards offsite provision. The Water Lane SPD included a school site on the north side of Water Lane, but it was not part of this application;
- the building heights only set the maximum level. Matters such as appearance, scale and layout were all reserved matters and would be judged against planning policy accordingly;

- bed spaces were for Purpose Built Student Accommodation (PBSA);
- a specific condition had been included in the update sheet relating to access for Gabriel's Wharf and the requirements of access to the canal and would be consulting with the harbour master;
- the Heights Parameter Plan determined the maximum height, allowed 4.5 metres for the ground floor, 3.3 metres for the upper floors, and 4.5.5m for a pitched roof;
- if the number of PBSA bed spaces exceeded 320 spaces, it would fall outside the scope of the outline consent;
- the application identified areas at the north end of the site for PBSA or residential development, but the demand requirement for PBSA would be considered by the developer;
- the transport strategy and electric bikes was dependent on having a mobility hub which would need to be brought forward and managed by the developer;
- electric bike provisions would be delivered for residents supporting sustainable travel in the city; and
- as part of the S106 agreement, viability reviews would be undertaken at key stages throughout the development.

Speaking under Standing Order 44, Councillor Moore made reference to:-

- referred to the submitted supplement paper from herself and Councillor Read and sought clarity from the Planning Committee on what they were approving;
- St. David's ward Councillors had been working with the community for three years to ensure they were able to contribute to the Water Lane SPD and engage with the developer, but there were still a number of issues to be addressed;
- Planning Committee Members were being asked to agree the outline planning permission focused on access, however, there were a number of parameter plans and conditions in the report that were wider reaching and weren't clear;
- matters agreed during the outline stage, couldn't be changed at the reserved matters stage and anything agreed at this stage could have a serious implications in future years;
- the development was large and once outline planning was approved, there was a possibility that some of the site could be sold off;
- there was an issue regarding affordable housing, which included a requirement to provide 35% affordable housing, including social housing. The report conditions indicate this wasn't expected from the developer;
- the report highlighted that should the condition be removed; that affordable housing could be secured in other ways, which was unnecessary in the outline stage;
- a copy of the developers' financial viability assessment had been shared with the Planning Committee;
- the Council had undertaken an independent assessment of the financial viability assessment and reported that the viability gap wasn't as big as the financial viability assessment suggested and that affordable housing was unlikely to be delivered on site by the developer;
- the Financial Viability Assessment advised that viability would change across economic cycles and over a long-term project there would be many reserved matters applications being brought forward over 10 years;
- new viability assessments would be likely at future stages, however, if the condition were removed, the Council would be unable to negotiate new Section 106 conditions for affordable and social housing;
- changes in viability for affordable housing should be considered at each reserved matters stage and should be retained in principle;
- comparisons were made to the Clifton Hill case relating to affordable housing

provisions and the importance of ensuring the developer wasn't relieved of the obligation to provide affordable homes and provide incentive for doing so;

- the site was described in the SPD as Exeter's quality flagship development, but without affordable housing, that claim was not correct. The St. David's community needed affordable and social housing;
- the commitment to active travel was applauded, but critical gaps remained, including the developer's confirmation that a canal bridge would not be provided for cycle routes;
- there were concerns about the lack of improvements to walking routes, notably having no proposals to improve the Gabriel's Wharf underpass, and ensuring safety;
- public transport needed to be conditioned and put in place before any residents move into the area;
- there was a need for a comprehensive transport strategy for the Haven Banks area and for the developer to work with residents and Councils to develop this strategy;
- an objection was submitted relating to building heights exceeding those set out in the SPD and requested that building heights be aligned with the SPD; and
- in summarising, the Planning Committee was urged to address the detail of the conditions to provide greater clarity to the community, the developer, and future Councillors;

In response to questions from Members, Councillor Moore made the following further comments:-

- the transport strategy mentioned in the list of conditions was limited to the development area but did not consider wider connectivity and there was a need for a comprehensive transport strategy which included the wider area;
- there was a need to ensure there was written commitment to provide affordable housing for future reserved matters stages. The current conditions relieved the developer of any obligation in providing affordable housing or engage in the viability process;
- the SPD (Supplementary Planning Document), determined what appropriate heights would be, however the proposed heights from the developer would be above the maximum six-story height identified in SPD and would have a significant visual impact on heritage views and conservation areas;
- the C bus had limited-service times, and it could not be conditioned for developers to consider its operation. The Council could, however, condition the requirement for developer contribution to support bus route viability during the initial phases;
- it was common practice for a Planning Committee to condition the provision of bus services; and
- it was important to provide safe walking and cycling routes and there was concern about access approval and the uncertainty of local design paths.

The Chair highlighted the need to stay focused on the current planning application and advised the committee to avoid speculative discussions unrelated to the report.

Speaking under Standing Order 44, Councillor Read made reference to:-

- the officer presentation highlighted that there would be a biodiversity net gain due to current low biodiversity in the area, notably the canal;
- a further condition needed to be applied on building heights to not to exceed five storeys to prevent overshadowing and protect the canal's important habitat;

- the parameter plan currently allowed for greater heights along the canal and across the site, which could impact the canal's ecology and needed to be limited to the requirement of the SPD;
- the importance of maintaining a 12-meter distance between buildings and the canal for safety, as reported by the Harbour Master;
- concern about the Strategic Flood Risk Assessment (FRA), particularly regarding unclear escape routes, the necessity of a bridge over the canal as part of the flood infrastructure being a condition;
- the need for clarity on where sewage from the development would go and whether it posed a risk; and
- the need for Section 106 payments for transport, active travel, flood egress, healthcare, and community infrastructure to be delivered before any occupancy takes place and to ensure the development supported active travel.

In response to questions from Members, Councillor Read made the following further comments:-

- clarified that the intention was not to object to the development but to ensure it benefited the city by through other necessary conditions; and
- highlighted the need for further clarity on the proposed flood rescue routes and the provision of a bridge.

Speaking under Standing Order 44, Councillor R Williams made reference to:-

- the importance of Gabriel's Wharf, notably its critical role at Gabriel's Wharf for maritime operations;
- welcoming the inclusion of condition 68 in addressing concerns in maintaining the Wharf's critical maritime role;
- recent maritime operations had required the craning in and out of vessels, notably the 190-ton Marie Claire trawler;
- a 500-tonne crane had been required for those operations which needed significant space for operations and a minimum 22 metre turning space for the lorries;
- the importance of having sufficient access through Water Lane for heavy vehicles and space for mobile cranes adjacent to the wharf;
- the canal wall at Gabriel's Wharf was reinforced, which was essential for maritime operations and negotiations between Planning and the Harbour Master would be ongoing; and
- any new bridge should be conditioned for easy opening using an automated opening mechanism to prevent any impact on maritime work.

In response to questions from Members, Councillor R Williams made the following further comments:-

- there was a need for clear access to the Wharf at all times considering previous emergencies. The Harbour Master would continue to work on access specifications with the Principal Project Manager (Development).

Mr GVH, in speaking against the application, made the following points:-

- he was speaking on behalf of the Exeter Civic Society in consultation with the Haven Banks Residence Group and the Friends of the Exeter Ship Canal;
- the recommendation to approve the outline application was supported, but there were significant reservations about the recommended condition;
- recent access to the financial viability assessment had raised questions about affordable housing and the need for comparable figures;

- an additional financial scenario was required to provide a better understanding of the financial implications of 35% affordable housing;
- supported Councillor Moore's comments in relation to affordable housing and related conditions;
- supported addressing transport flows within the development to prevent negative impacts on neighbouring areas;
- highlighted the need for collaboration with partners to address building parameter heights proactively; and
- advised that the developer had been responsive with the Exeter Civic Society, but further cooperation was still essential to implement changes sooner;

Mr GVH responded to questions from Members as follows:-

- the Exeter Civic Society's shared concerns about the overshadowing of the southern buildings and of the canal; and
- there was also concern about the adherence to SPD regulations, which limited new buildings to two storeys and clarification was sought on what constituted a two-storey difference.

Mr AW, speaking in favour of the application, made particular reference to:-

- the application would deliver much needed housing;
- having worked collaboratively with all stakeholders to develop a low-carbon, low-car, and mixed-use scheme on a sustainable brownfield site;
- the proposal aligned with the parameters of the Council's SPD and had been positively reviewed by the Independent Design Review on two occasions;
- the Independent Design Review panel had applauded the proposal and concluded that the Water Lane was an exemplar model for future schemes;
- the scheme aimed to transform the site and neighbourhood, whilst serving as a model for future developments and highlighted non-car-dependent lifestyles while protecting Exeter's greenfield setting;
- being an experienced developer with brownfield regeneration schemes and being committed to working with stakeholders;
- the application would provide many S106 contributions as detailed in the report;
- the understanding that affordable housing provision was a critical issue and the application highlighted the planned review mechanisms and key milestones; and
- affordable markets were currently fragile due to a lack of available funding, but markets would eventually improve to assist with providing affordable homes on the Water Lane site.

Mr AW responded to Members' questions as follows:-

- supported affordable housing developments;
- there were challenges in delivering affordable housing on complex brownfield sites, with standard review mechanisms in place to adapt to economic cycles;
- the mechanism proposed by the officers and the conditions were standard practice, which allowed appropriate checks and balances to be put in place to see if affordable housing was viable;
- the proposed building heights were within the parameters of the Water Lane SPD and had been considered as part of the landscape visual impact assessment;
- an example of a similar project was 'Harbury Cement Works,' where 19% affordable housing was achieved despite initial viability concerns;
- delivering the right type of affordable housing in Exeter was important;

- there was a commitment to improving the site's Biodiversity Net Gain (BNG) despite its current low value, but detailed ecological insights could not be provided without the ecologist present;
- four meters per storey was only applicable on ground floors for commercial uses and the standard height above the first floor would be 3.3 meters per storey, which aligned with the SPD documentation.

The meeting went into a recess at 20:05 and reconvened at 20:18

The Strategic Director for Place made the following concluding points:

- the application presented was one of the most important applications the Planning Committee had received in many years;
- the application was a response to a commitment made by the Council in 2005 for the development of Water Lane;
- the application site was the largest mixed-use brownfield site in the new Water Lane area and a top priority for regeneration;
- the project is part of the Liveable Exeter initiative, which would have strategic benefits for the city;
- the resolution to grant would provide strong evidence for the Local Plan, and provide confidence to invest in Exeter;
- a new Development Framework and Design Code for Water Lane was developed and a new SPD was adopted in 2024 after extensive engagement and provided detailed policy guidance to address the challenges of the application;
- infrastructure elements needed for the development would be secured through Section 106 agreements;
- collaboration between landowners and statutory bodies would be encouraged for broader infrastructure delivery;
- the outline planning application was demonstrating how 1000 new homes and infrastructure could be delivered and only access was being considered in detail at this stage;
- there were six important parameter plans that sat alongside the SPD providing a framework for future detailed proposals. The following key issues were considered as follows-:
 - Infrastructure and Delivery, had been secured by S106;
 - Flooding – the area was in Flood Zone 3; however, objections had been withdrawn by the Environment Agency and all technical assessments were satisfactory. All housing would be above the ground floors with buildings designed with flood resilience in mind;
 - Access and Movement – a strategy had been developed with Devon Highways to ensure neighbourhood connectivity, pedestrian-friendly designs and creating safer environments, which would be covered through Section 106 obligations;
 - Design – the parameter plan broadly met the SPD requirements on heights, although some differences were noted. SPD and designs would be finalised during the reserved matters stage, where the Council had more control;
 - Affordable Housing – there was no provision for affordable housing in Section 106 agreement at this stage due to exceptional costs and viability evidence. Review mechanisms were in place to revisit this at each stage of reserve matters; and
 - Housing Supply and Planning Balance – Exeter didn't have a five-year land supply and the 'tilted balance' applied. The scheme was recommended for approval regardless of the land supply position based on the planning benefits.

During debate, Members expressed the following views:-

- this was a complex and very important development and Members needed to get this right for residents;
- the Council had a policy to support affordable housing and the principle commitment to having affordable housing should be clear for stage reviews;
- the late Condition 68, didn't refer to Gabriel's Wharf during the construction period and the wording could be amended by officers;
- there were some discrepancies in the building heights and more clarity was needed on whether the SPD document or a new parameter plan was being followed;
- appreciation was expressed for the developer's consultation efforts with the community and the work put into the project;
- continued engagement with local communities and ward councillors was encouraged as the development progressed;
- informative suggestions rather than amending conditions regarding Gabriel's Wharf would be welcomed and a clear a commitment affordable housing in Exeter included;
- condition 68 for Gabriel's Wharf doesn't deal with the issue of onsite works and ensuring 24-7 access;
- some discrepancy about the number of stories being permitted and clarity for future reports on whether the SPD was being followed or a new parameter plan;
- the site was a brownfield with viability plans in place, which if Members insisted on a certain amount of affordable housing, could prevent the project from proceeding;
- there was no funding for affordable housing current available and any conditions attached, needed to be enforceable;
- there was a Section 106 agreement commitment to continue negotiations on providing affordable housing;
- the Council was committed to affordable housing; however, the brownfield site presented many challenges and viability of the site needed to be considered;
- praise was made to the planning team for the work undertaken;
- there was a potential to amend Condition 16, concerning the construction method statement;
- concerns were raised about building heights, notably the additional height from roofing structures;
- the flat roof structures at the southern end could prevent overshadowing on the canal, and highlighted the importance compromises between the developer and the Council;
- were maximum heights were set by expectations to allow architectural freedom in the designs?
- it was clarified that specific building matters would be addressed in reserved matters stage at a later time;
- the project had been ongoing for three years and was 20 years in the making, with significant challenges due to the site's complexity;
- delivering a large number of housing units would strengthen the position on affordable housing under the local plan;
- objections that had been raised by speakers had been considered in the report and officer presentations; and
- members were in support of the proposal;

In response to questions raised by Members, the Principal Project Manager (Development) explained:-

- the development plans showed the public transport through the site in accordance with the SPD, delivery of which would be coordinated across the Water Lane area by officers and developers;
- there was a commitment to affordable housing included in the Section 106 agreement, to allow ongoing negotiations and viability reviews to be undertaken at each stage, which was preferable to setting unenforceable conditions; and
- the section 106 matters were a contractual legal agreement, whilst the conditions were part of the permission.

Councillor Rolstone moved, and Councillor Miller-Boam seconded, that the wording “in the interests of ensuring access to Gabriel Wharf during construction” be added to Condition no. 16. On a vote this was CARRIED unanimously.

Councillor Ketchin moved, and Councillor Bennett seconded an amendment to avoid overshadowing of the canal on southern end of the development, in relation to biodiversity.

Following clarification from the Principal Project Manager (Development), that overshadowing would be limited and had no material impact on biodiversity, Councillor Ketchin withdrew the amendment.

The Chair moved, and Councillor Atkinson seconded the recommendation for approval.

RESOLVED

- a) to delegate to the Head of City Development to grant permission subject to; the confirmation of the hazardous substances’ revocation order by the secretary of state, and completion of a legal agreement under section 106 of the town and country planning act 1990 (as amended) to secure those matters listed in the report, and the conditions and their reasons set out in the report and as amended during the meeting, the wording of which may be varied.

and

- b) to delegate to the Head of City Development to refuse permission if the legal agreement under section 106 of the town and country planning act 1990 (as amended) is not completed within (12 months from the date of committee or such extended time as agreed in writing by the service lead (city development) as the development would be unacceptable in the absence of the matters listed being secured.

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LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS

The report of the Strategic Director for Place was noted.

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APPEALS REPORT

The report of the Strategic Director for Place was noted.

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REMINDER FROM THE CHAIR

The Chair reminded Planning Members of the training session being held on 3 February 2025, and encouraged all Members to attend, emphasising the importance of the session.

(The meeting commenced at 5.30 pm and closed at 9.12 pm)

Chair