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Date: 28-9-2011

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PLANNING COMMITTEE

Date: Thursday 6 October 2011

Time: 1 pm

Venue: Council House, Armada Way, Plymouth

Members:

Councillor Lock, Chair

Councillor Mrs Bowyer, Vice Chair

Councillors Browne, Churchill, Delbridge, Mrs Foster, Mrs Nicholson, Stevens, Tuohy, Vincent, Wheeler and Williams.

Members are invited to attend the above meeting to consider the items of business overleaf.

Members and officers are requested to sign the attendance list at the meeting.

Please note that unless the chair of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

Barry Keel
Chief Executive

PLANNING COMMITTEE

AGENDA

PART I – PUBLIC MEETING

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES

(Pages 1 - 8)

The Committee will be asked to confirm the minutes of the meeting held on 22 September 2011.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. QUESTIONS FROM MEMBERS OF THE PUBLIC

The Chair will receive and respond to questions from members of the public submitted in accordance with the Council's procedures. Questions shall not normally exceed 50 words in length and the total length of time allowed for public questions shall not exceed 10 minutes. Any question not answered within the total time allowed shall be the subject of a written response.

6. PLANNING APPLICATIONS FOR CONSIDERATION

(Pages 9 - 10)

The Assistant Director of Development (Planning Services) will submit a schedule asking Members to consider Applications, Development proposals by Local Authorities and statutory consultations under the Town and Country Planning Act 1990 and the Planning (Listed Building and Conservation Areas) Act 1990. Members of the Committee are requested to refer to the attached planning application guidance.

6.1 FORMER TENNIS COURTS, HOE ROAD-PIER STREET, PLYMOUTH 11/01145/FUL

(Pages 11 - 48)

Applicant:	Pier St Limited
Ward:	St Peter & The Waterfront
Recommendation:	Grant Conditionally subject to S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 10th October 2011.

**6.2 FORMER TENNIS COURTS, HOE ROAD-PIER STREET,
PLYMOUTH 11/01146/CAC**

(Pages 49 - 54)

Applicant: Pier St Limited
Ward: St Peter & The Waterfront
Recommendation: Grant Conditionally

7. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) ... of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

NIL.

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Planning Committee

Thursday 22 September 2011

PRESENT:

Councillor Lock, in the Chair.

Councillor Mrs Bowyer, Vice-Chair.

Councillors Browne, Churchill, Delbridge, Mrs Foster, Mrs Nicholson, Stevens, Tuohy, Vincent, Wheeler and Williams.

Also in attendance: Paul Barnard, Assistant Director of Development (Planning Services), Peter Ford, Lead Officer, Mark Lawrence, Lawyer, and Katey Johns, Democratic Support Officer.

The meeting started at 1 pm and finished at 4.05 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

37. **DECLARATIONS OF INTEREST**

There were no declarations of interest made by Councillors relating to items under discussion at this meeting in accordance with the code of conduct.

38. **MINUTES**

Agreed the minutes of the meeting held on 25 August 2011.

CHAIR'S URGENT BUSINESS

39. **Order of Business**

The Chair reported on changes to the order of business, namely that –

- (a) with regard to agenda item 6.5, it was necessary to bring the item forward for consideration in order to allow Councillor Nicholson, ward councillor speaking on the matter, to return to Court;
- (b) agenda item numbers 6.8 and 6.9 had been withdrawn.

(In accordance with Section 100(B)(4)(b) of the Local Government Act 1972, the Chair brought forward the above items of business to facilitate better meeting management and inform Members).

40. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

There were no questions from members of the public.

41. **PLANNING APPLICATIONS FOR CONSIDERATION**

The Committee considered the following applications, development proposals by local authorities, and statutory consultations submitted under the Town and Country Planning Act, 1990, and the Planning (Listed Buildings and Conservation Areas) Act, 1990.

Addendum reports were submitted in respect of minute numbers 41.3, 41.4, 41.5, 41.6 and 41.8.

**41.1 15 WESTBOURNE ROAD, PEVERELL, PLYMOUTH
11/01224/FUL**

(Mrs R Kennedy)

Decision:

Application **GRANTED** conditionally.

41.2 41.2 2 LITTLEWOOD CLOSE, PLYMOUTH 11/01192/FUL

(Mr Martin Holloway)

Decision:

Application **GRANTED** conditionally.

**41.3 LAND NORTH OF WEST PARK HILL, PLYMPTON,
PLYMOUTH 11/01209/FUL**

(Wolf Minerals (UK) Ltd.)

The Committee heard from the Lead Officer that a letter had been received from the Department for Communities and Local Government directing the Council not to grant permission on this application without specific authorisation. Whilst this direction did not prevent the Council from considering the application, forming a view as to its merits, or refusing permission, no decision letter could be issued to the applicant until the matter had been determined by the Secretary of State.

Decision:

Application **DEFERRED** for fuller consultation with residents, to hear comments from the public meeting on 30 September 2011, to consider further mitigation in terms of traffic movement and landscaping, and to enable further negotiation on the code of practice for construction.

(At the invitation of the Chair, the Committee heard representations against the application from Ward Councillor Patrick Nicholson).

(At the invitation of the Chair, the Committee heard representations against the application).

(At the invitation of the Chair, the Committee heard from the applicant's agent).

(Councillor Mrs Nicholson's proposal to defer the item, having been seconded by Councillor Mrs Foster, was put to the vote and declared carried).

(This item was brought forward to facilitate better meeting management).

41.4 FORMER TENNIS COURTS, HOE ROAD-PIER STREET, PLYMOUTH 11/01145/FUL

(Pier St Limited)

Concerns were raised that an administrative error had resulted in some of the Committee Members not being informed about the site visit which had taken place that morning. Further to legal advice, in order to ensure fair treatment of Members and fair access to information, a further site visit was proposed.

Decision:

Application **DEFERRED** for two weeks to allow for a further site visit under criteria 1 – development where the impact of a proposed development is difficult to visualise from the plans and any supporting material.

(At the invitation of the Chair, the Committee heard representations against the application from Ward Councillor Tuffin).

(At the invitation of the Chair, the Committee heard representations against the application).

(At the invitation of the Chair, the Committee heard representations in support of the application from the applicant).

(Councillor Wheeler's proposal to defer for a site visit, having been seconded by Councillor Williams, was put to the vote and declared carried).

(This item was considered in conjunction with minute number 41.5).

41.5 FORMER TENNIS COURTS, HOE ROAD-PIER STREET, PLYMOUTH 11/01146/CAC

(Pier St Limited)

Decision:

Application **DEFERRED** for two weeks to allow for a further site visit under criteria 1 – development where the impact of a proposed development is difficult to visualise from the plans and any supporting material.

(This item was considered in conjunction with minute number 41.4)

41.6 HAMPTON COTTAGES, REGENT STREET, PLYMOUTH 11/01047/FUL

(Colourcolt Student Living Ltd.)

Officers were requested to ensure that, through the S106 Obligation, a substantial start is defined clearly in accordance with the market recovery scheme.

Decision:

Application **GRANTED** conditionally subject to the additional conditions and informatives set out in the addendum report, and S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 12 October 2011.

**41.7 LAMSPARK CARE HOME, 38 MERAFIELD ROAD, PLYMOUTH
11/01136/FUL**

(Mr D Wraighte)

Decision:

Application **REFUSED**.

(At the invitation of the Chair, the Committee heard representations against the application from Ward Councillor Mrs Beer).

**41.8 LAND ON THE JUNCTION OF TAVISTOCK ROAD AND
PLYMBRIDGE ROAD, PLYMOUTH 11/00940/FUL**

(Taylor Wimpey (Exeter) UK Ltd.)

Decision:

Application **WITHDRAWN**.

**41.9 TURNCHAPEL BOAT YARD, CLOVELLY VIEW, PLYMOUTH
11/00651/FUL**

(Turnchapel Developments Ltd.)

Decision:

Application **WITHDRAWN**.

42. PLANNING APPLICATION DECISIONS ISSUED

The Committee received a report from the Assistant Director of Development (Planning Services) on decisions issued from 16 August to 11 September 2011, including –

- 1) Committee decisions;
- 2) Delegated decisions, subject to conditions where so indicated;
- 3) Applications withdrawn;
- 4) Applications returned as invalid.

**43. PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION FOR HOUSES
IN MULTIPLE OCCUPATION**

The Committee received for its information a report on the Council's proposals to make a non-immediate Article 4 Direction to control changes of use to houses in multiple occupation. Members were advised that –

- (a) Cabinet had approved the proposals at its meeting on 23 August 2011;
- (b) an application for an Article 4 Direction had been made on 13 September 2011 and a six-week consultation period had commenced;
- (c) the areas identified for inclusion in the Article 4 Direction were those where there was already a high concentration of HMOs, namely the City Centre, Mutley and Greenbank;
- (d) the Article 4 Direction would also provide controls in the most at risk parts of the surrounding neighbourhoods of Stonehouse, Stoke,

Peverell, Beacon and Pennycross, Hartley and Mannamead, Higher Compton, Efford, Lipson and Laira, Mount Gould and East End where future pressures could harm the balance and sustainability of those communities;

- (e) guidance for Members on how future applications considered under the Article 4 Direction should be determined would be prepared.

The Committee noted the report.

44. **EXEMPT BUSINESS**

There were no items of exempt business.

SCHEDULE OF VOTING

PLEASE NOTE

A SCHEDULE OF VOTING RELATING TO THE MEETING IS ATTACHED AS A SUPPLEMENT TO THESE MINUTES.

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SCHEDULE OF VOTING

Minute number and Application	Voting for	Voting against	Abstained	Absent due to interest declared	Absent
41.1 15 Westbourne Road, Peverell, Plymouth 11/01224/FUL	Unanimous				
41.2 2 Littlewood Close, Plymouth 11/01192/FUL	Unanimous				
41.3 Land North of West Park Hill, Plympton, Plymouth 11/01209/FUL	Councillors Browne, Delbridge, Churchill, Mrs Foster, Mrs Nicholson, Mrs Bowyer and Lock	Councillors Tuohy, Stevens, Williams, Vincent and Wheeler.			
41.4 Former Tennis Courts, Hoe Road-Pier Street, Plymouth 11/01145/FUL	Councillors Churchill, Mrs Foster, Mrs Nicholson, Tuohy, Stevens, Williams, Vincent and Wheeler	Councillors Browne, Mrs Bowyer and Lock	Councillor Delbridge		
41.5 Former Tennis Courts, Hoe Road-Pier Street, Plymouth 11/01146/CAC	Application deferred for consideration in conjunction with application 11/01145/FUL above				
41.6 Hampton Cottages, Regent Street, Plymouth 11/01047/FUL	Unanimous				
41.7 Lambspark Care Home, 38 Merafield Road, Plymouth 11/01136/FUL	Unanimous				
41.8 Land on the Junction of Tavistock Road and Plymbridge Road, Plymouth 11/00940/FUL	Application Withdrawn				
41.9 Turnchapel Boat Yard, Clovelly View, Plymouth 11/00651/FUL	Application Withdrawn				

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PLANNING APPLICATIONS FOR CONSIDERATION

All of the applications included on this agenda have been considered subject to the provisions of the Human Rights Act 1998. This Act gives further effect to the rights included in the European Convention on Human Rights.

Addendums

Any supplementary/additional information or amendments to a planning report will be circulated at the beginning of the Planning Committee meeting as an addendum.

Public speaking at Committee

The Chair will inform the Committee of those Ward Members and/or members of the public who have registered to speak in accordance with the procedure set out in the Council's website.

Participants will be invited to speak at the appropriate time by the Chair of Planning Committee after the introduction of the case by the Planning Officer and in the following order:

- Ward Member
- Objector
- Supporter

After the completion of the public speaking, the Planning Committee will make their deliberations and make a decision on the application.

Committee Request for a Site Visit

If a Member of Planning Committee wishes to move that an agenda item be deferred for a site visit the Member has to refer to one of the following criteria to justify the request:

1. Development where the impact of a proposed development is difficult to visualise from the plans and any supporting material.

The Planning Committee will treat each request for a site visit on its merits.

2. Development in accordance with the development plan that is recommended for approval.

The Planning Committee will exercise a presumption against site visits in this category unless in moving a request for a site visit the member clearly identifies what material planning consideration(s) have not already been taken into account **and** why a site visit rather than a debate at the Planning Committee is needed to inform the Committee before it determines the proposal.

3. Development not in accordance with the development plan that is recommended for refusal.

The Planning Committee will exercise a presumption against site visits in this category unless in moving a request for a site visit the Member clearly identifies what material planning consideration(s) have not already been taken into account **and** why a site visit rather than a debate at the Planning Committee is needed to inform the Committee before it determines the proposal.

4. Development where compliance with the development plan is a matter of judgment.

The Planning Committee will treat each case on its merits, but any member moving a request for a site visit must clearly identify why a site visit rather than a debate at the Planning Committee is needed to inform the Committee before it determines the proposal.

5. Development within Strategic Opportunity Areas or development on Strategic Opportunity Sites as identified in the Local Plan/Local Development Framework.

The Chair of Planning Committee alone will exercise his/her discretion in moving a site visit where, in his/her opinion, it would benefit the Planning Committee to visit a site of strategic importance before a decision is made.

Decisions contrary to Officer recommendation

1. If a decision is to be made contrary to the Head of Planning and Regeneration recommendation, then the Committee will give full reasons for the decision, which will be minuted.
2. In the event that the Committee are minded to grant an application contrary to Officers recommendation then they must provide:
 - (i) full conditions and relevant informatives;
 - (ii) full statement of reasons for approval (as defined in Town & Country Planning (General Development Procedure) (England) (Amendment) Order 2003);
3. In the event that the Committee are minded to refuse an application contrary to Officers recommendation then they must provide:
 - (i) full reasons for refusal which must include a statement as to demonstrable harm caused and a list of the relevant plan and policies which the application is in conflict with;
 - (ii) statement of other policies relevant to the decision.

Where necessary Officers will advise Members of any other relevant planning issues to assist them with their decision.

PLANNING APPLICATION REPORT



ITEM: 01

Application Number: 11/01145/FUL

Applicant: Pier St Limited

Description of Application: Redevelopment of site for mixed use development comprising 14 residential apartments, ground floor café/restaurant (class A3 use), public toilet facilities and associated basement car parking

Type of Application: Full Application

Site Address: FORMER TENNIS COURTS, HOE ROAD-PIER STREET
PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 15/07/2011

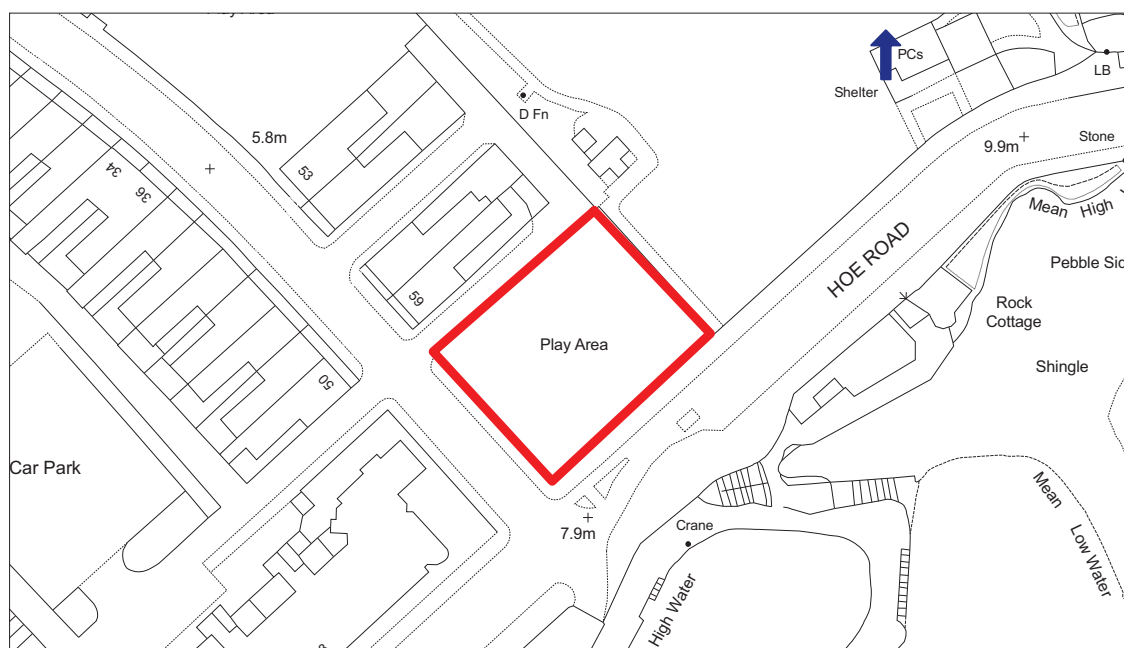
8/13 Week Date: **14/10/2011**

Decision Category: Major Application

Case Officer : Mark Evans

Recommendation: Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 10th October 2011

Click for Application Documents: www.plymouth.gov.uk



Site Description

The site occupies a prominent location on Hoe Road and abuts the south west corner of West Hoe Park. The site is bounded by Pier Street and Hoe Road at its south and south west edges and by a small access/service road on its northern edge on which there are a number of on-street car parking bays. The site is situated within the Hoe Conservation Area.

In terms of the broader context of the site, the site lies in close proximity to The Hoe which is a Grade II Listed Designated Park and Garden. Whilst not within the designated Landscape itself, the setting of this landscape and its architectural backdrop of high quality buildings including the Grade II Listed buildings of the old Grand Hotel (Now converted into apartments), Elliot Terrace and the Grade I Listed Smeaton's Tower, is an important part of the site's setting.

In addition to local views of the site from Hoe Road, Pier Street and West Hoe Park, there are views down onto the site from the Hoe itself and Cliff Road, together with views from Plymouth Sound.

The adjacent West Hoe Park is a popular park for both locals and visitors for both its landscape qualities and the range of amusements it offers including a children's railway which bounds the site on its north eastern edge. It is important to note that the site is not within, or part of, West Hoe Park.

The site covers an area of approximately 0.09 hectares. It is rectangular in shape and is generally level. The site is currently vacant laid to tarmac and fenced off with a chain link / close boarded fence.

Proposal Description

Redevelopment of site for mixed use development comprising 14 residential apartments, ground floor café/restaurant (class A3 use), public toilet facilities and associated basement car parking.

Although originally proposed as a six storey building, following third party representations regarding the height and massing of the building, revised plans have been received which delete the previous fifth floor penthouse sun rooms and roof terrace, and also reducing the size and height of the remaining fourth floor. This results in the proposed development now being five stories.

The proposed basement car parking will be accessed from the rear service lane and will provide car parking spaces for a maximum of 21 vehicles, together with cycle storage, plant rooms, bin stores, Biomass Boiler and pellet store.

At ground floor level is a new commercial unit and public toilets, both of which will be accessed from the park.

The first, second and third floors have three apartments on each level (2 and 3 beds). The third floor has been designed to step in at the rear in order to respond to the reduced massing of the domestic terraces on Pier Street.

The ground floor of the park elevation has been designed so as to provide an open space for “al fresco” seating to the commercial unit in order to improve the active relationship of the ground floor use to the park.

The fourth floor is designed as an attic floor, set back from the building line of the floors below on all four sides and provides accommodation for two penthouses.

Drawing on historic precedents from the Hoe and also the wider context of Plymouth, a strong projecting ground floor “loggia” is proposed which links visually with the balcony line of the adjoining Hoe Road properties.

Similarly, the proposed projecting bays and winter gardens have been designed to respect the vertical and horizontal proportions of the adjoining terrace.

In order to improve the appearance of the roofscape of the building when viewed from the Hoe and Cliff Road, and also to create a net gain in biodiversity, the development incorporates a green roof.

The proposed materials have been designed to reflect the context of the site at the ground floor being composed of fair faced and polished concrete for the ‘loggia’ element and fair faced ashlar Plymouth limestone for walls. The submitted Design and Access Statement states that the limestone will be sourced from Devon quarries and provides a link with both the history of the site and its material context. Bronze anodized aluminium windows and curtain walling system are also proposed.

From 1st to 3rd floors and at the rear of the building an off white lime coloured render is proposed. The recessed 4th floor is designed as a highly glazed lightweight attic element and will be incorporate a framework in dark grey limestone or slate similar in quality to the slate roofs seen throughout the conservation area and a glazed curtain walling system.

Relevant Planning History

11/01146/CAC - Demolition of boundary wall and steps - UNDECIDED

08/00615/FUL – Redevelopment of site for mixed use development comprising of 14 residential apartments, office, café/restaurant and associated basement parking - WITHDRAWN

Consultation Responses

Highway Authority

No objections subject to conditions relating to parking and access.

Environment Agency

Flood Risk Standing Advice applies (Flood Zone 1) - Surface water management good practice principles and standards should be applied.

South West Water

No objections.

Public Protection Service

No objections subject to conditions relating to hours of operation, toilet facilities access, land quality, extract ventilation and mechanical plant details.

English Heritage

While not raising any objections to the mix of uses or the conceptualisation of the architecture, English Heritage believes that the scheme (as originally proposed) is too high and on balance, will harm the character and appearance of the conservation area.

Following receipt of revised plans, English Heritage has been re-consulted and has made the following comments:

“While the removal of the top floor is a start, the finessing of the fifth floor doesn't really make a lot of difference to overall impact. In fact, given the apparent reluctance to engage in more serious review of the roof treatment it might have been better to remove the fourth floor and keep the fifth and sixth floors as this vertical hierarchy helped to provide articulation and mitigation of the massing. However, I appreciate that commercial viability might preclude this option although no information to substantiate the need to maintain a critical quantum of development and therefore value looks to have been submitted.

While the building appears to have a not too unreasonable height relationship with Grand Parade when seen in its south elevation in isolation, it remains over-dominant when seen alongside its neighbours in Pier Street and when viewed from the east as the visualisation from the Hoe demonstrates. It would have been helpful to have more photomontage and contextual material with which to gauge wider impact as our letter recommended, and in this respect I must reiterate the benefit in having more expansive views from the south and from the north at various points along the Hoe, to appreciate in particular what the rear of the building will be like when seen from various perspectives against the townscape of the seafront.

On this basis we consider that the scheme would still cause a degree of significant harm to the character and appearance of the conservation area and that, in accordance with PPS 5, public benefits must be evident to justify approval (policies HE7.5 & HE9.4). However, it is conceivable that the additional information we have advocated be sought may, once available, suggest that substantial harm would result, in which case policies HE9.2 & 9.3 are more likely to apply.”

Garden History Society

Does not wish to comment on the proposals.

Ministry of Defence

The Ministry of Defence advises that it has no safeguarding objections to this development subject to the implementation of an appropriate planning condition requiring MOD verification that the building meets set dynamic loading criteria should planning approval be granted.

The reason for such a condition is that the site of the proposed development falls within the outer statutory explosive safeguarding zone surrounding Plymouth

Sound. All buildings within this zone should be 'non-vulnerable' that is of robust construction and design so that should an explosive incident occur, buildings nearby will not collapse or sustain damage that cause critical injury to the occupants.

The principal concern of the MOD relates to the development of buildings exceeding three storeys, structures incorporating large clear spans, large areas of glazing and buildings that are constructed out of timber. In the event of an explosive incident, buildings incorporating these features can be prone to disproportionate damage.

It is acknowledged however, that drawings showing the frame and internal construction materials are not yet available. Without this information it is difficult for the MOD to determine whether or not this building should be deemed a vulnerable structure. As the application proposes a 5 storey multi use building with large amounts of glazing the MOD therefore considers it necessary to require a condition is imposed to demonstrate that the development is not a vulnerable structure in terms of blast risk.

Representations

At the time of writing the Officer's report, 125 individual (non standard) letters of representation have been received. 149 letters have also been received of one "standard" format or another, containing identical points or duplicated letters. In addition to a single batch of 653 "standard" letters of objection which contain identical points and a petition of 6880 signatures. (Copies of all representations received are available for Member's inspection prior to Committee.)

Objections to the development can be summarised as:

Covenant -

1. Objection as the proposed development appears to contravene the 1913 Covenant which it is stated "prevents any building on the land...except dwelling houses or shops a character at least equal to the dwelling houses and shops on parts of West Hoe Building Estate in the adjoining land". It is argued that the apartment block is out of context with the existing houses and shops. The Covenant is also contravened because it states that no part of the land "shall at any time be used otherwise than for the embellishment and improvement of the western part of the Recreation Ground known as Plymouth Hoe...or such other public purposes as will tend to improve the amenities of the West Hoe and rend it more attractive to residents and others as a place of resort". It is considered that Plymouth City Council is selling the land without any thought to the rights and wishes of the people of Plymouth and the many visitors to the city. To allow the development would be compounding a "felony" and concern is expressed regarding "underhand tactics" being used over the sale of the land.
2. It is alleged that there is also a Covenant stating that the building should not exceed the height of those behind on Pier Street.

Planning and Design Brief -

3. The application is based on a Planning and Design Brief produced by the Council in 2006 which is considered to be out of date and did not involve any public consultation. It is argued that in the context of the current "localism"

and “big society” political agenda, the brief should be revisited. Assurance is requested that this will not form part of the evaluation of this planning application.

Hoe Conservation Area Appraisal and Management Plan 2008 -

4. The proposed development is considered to fail to meet the requirements of the Hoe Conservation Area Appraisal and Management Plan 2008, specifically the requirement for development to contribute positively to the overall preservation or enhancement of the Conservation Area. Similarly, the development is not considered to contribute positively to the wider regeneration of the city, does not respect the character of the existing public space and does not reduce or remove any adverse impact of traffic management or parking provision.

Scale and Massing -

5. The proposal is considered to lead to substantial harm to the Hoe Conservation Area and even if the harm caused is judged as less than substantial, this inappropriate scheme (as opposed to an alternative design which would enhance the area) has no public benefit that would justify outweighing the harm that it will cause.
6. The scale, height and massing of the building is too big and out of proportion with adjoining development. As a result the building is too dominant on the site and West Hoe Skyline, and will overshadow the habitable rooms and rear yards of neighbouring properties to an unacceptable degree.
7. The scale (in terms of both height and width) is a fundamental difficulty, especially with the relationship with the more modest (and in keeping) neighbours in Pier Street. It is considered that the height and width should be reduced.
8. The dominant size of the building will create a tunnel effect both within the park and at the southern end of Pier Street and result in a loss of light to the street which is popular with Plymouth families and young children.

Design -

9. A contemporary design is not considered appropriate for this very prominent site, does not complement the Hoe foreshore and dominates the views of the Hoe from Plymouth Sound, Cliff Road, Madeira Road, Mountbatten and surround areas. A pastiche design replicating the adjoining Grand Parade terrace (which it is stated has won awards) and Pier Street houses is preferred.
10. The design is considered to be inappropriate to this historically important site and vista of the Hoe, and is considered to be invasively dominant, utilitarian, unimaginative, unattractive, insensitive, mediocre, cumbersome, boxy, arrogant, indulgent, monolithic and unsympathetic to the use, pace, ambience, character and appearance of the locality. As such the design is considered contrary to Core Strategy policy CS02, CS34 and Strategic Objective 15.
11. The proposed design is ordinary and oversized and constitutes a lost opportunity for an iconic building. Something very modern should be built that is very edgy and which becomes a symbol of Plymouth like Smeaton's Tower.

12. The quality of the design is likened to that of both the existing Quality Inn and Holiday Inn, both of which are identified as being of negative impact on the Conservation Area within the Hoe Conservation Area Appraisal and Management Plan 2008.
13. The design fails to take account to planning policy guidance and Government guidance contained in PPS5 – “The desirability of a new development making a positive contribution to the character and local distinctiveness of the historic environment.” This design does not consider scale, height, massing, alignment, materials or use and would result in an ugly and embarrassing blot on the Hoe foreshore and Conservation Area and creates an abrupt and jarring transition between the townscape of West Hoe and the open parkland and waterfront to the east.
14. The proposed building line is not considered to be in keeping with the adjoining building line of Grand Parade and creates a narrow pavement width at this point out of keeping with the locality. This is considered to compound the overpowering effect of the design.
15. The same developer has produced the “monstrous” Azure development which is unsympathetic to the Grand and West Hoe Plans and is a similar eyesore. The Council should take a dim view of comparable plans in the Hoe Conservation Area and not make the same “mistake” of having a construction which does not enhance surrounding Grade II and Grade II* buildings.
16. The proposed materials, both in range and specification, are considered to be substantially different from those used in surrounding buildings and are inappropriate to the Conservation Area. Due to the exposed nature of the site, the proposed materials will soon be badly affected and become an embarrassing eyesore. On this basis the development is considered to be contrary to Core Strategy 34.
17. The development design does not contribute to the biodiversity of the area.

Planning Policy -

18. The applicant’s assessment of planning policy and PPS 5 guidance is not considered to be impartial or fairly balanced, and does not reflect the broader views of the local community. On this basis the validity of the application is considered to be far from certain. The planning committee is urged to take into account of local opinion in order to comply with PPS5.

Impact on West Hoe Park and environs -

19. Objections to the building encroaching onto the park. West Hoe is noted as being a family park that has recently gained “Green Flag” status. As a result of the development, the grassed area of the park and the children’s railway will lose a significant amount of sunlight, particularly afternoon sunlight with the proposed building casting a significant shadow over this area which is considered to irreversibly, adversely affect the park and the children’s train and its appeal to thousands of visitors. This would be contrary to guidance contained in Planning Policy Guidance 17.
20. Objection as the development will adversely affect the micro climate of the park which is described as having a “sub tropical” feel and it is expected that a reduction in the sunlight will adversely affect the climate and species which can thrive in it.

21. In accordance with guidance contained within Planning Policy Guidance 17, Plymouth City Council need to be clear about any potential benefits to the community that need to be weighed against the incremental loss of park space and the significantly detrimental impact on the park that remains.
22. Objection to the train being in shadow for most of the afternoon as this would be contrary to Area Vision 4 of the Council's adopted Core Strategy which notes the "importance of maintaining a unique, high quality, well resourced and engaging tourist and leisure destination". Concern that all the new flats will directly overlook the areas in which children play which would cause significant concern to parents, further reducing the attractiveness of this "unique, high quality, well-resourced and engaging facility". The Child Protection issues should be considered.
23. The Planning Committee is implored not to let this eyesore be the Council's legacy to the Hoe and it is believed that any development on this site should serve to enhance the recreational facilities of West Hoe Park, rather than impair those facilities or the life of the local and broader community.
24. Development would have a disastrous environmental impact as the area would no longer be an open green un-spoilt area for families to visit where there is no entry fee, no closing hours and no restricted access for people with disabilities.
25. The area would become a "back garden" for the development as the development would not only cast a huge shadow over the area for a large proportion of the day but would obliterate the stunning views towards Drake's Island and Mount Edgecombe leaving visitors only the back of a building to view.
26. The development of the site will additionally dominate the playground in Pier Street, creating an oppressive and overlooked environment which will diminish its amenity value.
27. The residential apartments are not compatible with the noise of the adjoining children's playground and particularly the railway bell.

Impact on views and vista -

28. Contrary to policy CS02, The development will not protect important local and longer distance views. It is considered that existing views from the park of Drake's Island will be lost with the views being dominated by the flats to the west and the cliffs to the east, in effect creating a narrow 80 metre wide gorge. It is considered that this will completely change the open park atmosphere.
29. The elevated view from the rear off Cliff Road and the Hoe are an important consideration. There is no elevated perspective drawing illustrating the roof of the building which is essential in enabling an informed decision as to whether a high quality roof solution is being adopted. Objections to glass monstrosity with top floor "video box thing".

Daylight and Sunlight Study -

30. The daylight and sunlight study is considered to be flawed as it does not show the tenement buildings or gardens to the rear of the Pier Street houses on the models and does not acknowledge that the park is affected. It is considered that these areas will be in fact be in shadow from 0800 to 1200 with the children's train being more than 40% in shadow from 1300 to 1800

hours each day. (Increasing hugely in the winter sun). The study also does not consider the “tunneling” effect on the whole of Pier Street with very large buildings at the end of the street completely out of scale with those houses on Pier Street. The report is considered to be misleading.

Car parking, access and impact on highways -

31. The development plans will have a detrimental impact on car parking in the locality. Visitors to the apartments and the café will have nowhere to park thus adding to the already congested area and the proposed car parking is considered to be unrealistic.
32. The development is considered to significantly prejudice highway safety and the proposed access to the basement is considered to exacerbate existing parking and access problems to existing users of the narrow on-street car parking and access lane, the exit on to which will be dangerous. The building will cause a severe “blind spot” at the junction of Pier Street and the Barbican and an associated additional hazard to pedestrians and other road users. The plans are not clear how the widening of the rear service lane will be achieved.
33. The current use of the site as a car park is a positive use of the site providing much needed additional and safer car parking next to the play area. Loss of this car parking will adversely affect the park and local businesses.
34. Concern about the practicality of collecting the development’s waste bins from the narrow rear service lane.

Impact on neighbouring properties and businesses -

35. The building will restrict the views from and sunlight to neighbouring properties and local businesses, of which the latter consider is a vital component of their business.
36. Objections to the proposed café/restaurant on basis that there is already a surfeit of amenities in the immediate locality; that this will compete with existing commercial uses. The availability of alcohol in such close proximity to a children’s play area is considered to be abhorrent.
37. Development would adversely affect businesses in and around West Hoe as visitors would no longer find West Hoe a pleasant and welcoming open space.

Public Conveniences -

38. It is considered that the existing public conveniences are adequate and the new ones both unnecessary and likely to be off putting to potential purchasers of the development. It is questioned what will happen to the existing toilets? It is questioned whether the proposed public toilets are simply to add more “Brownie Points” to the application as it will save the Council on maintenance costs. Concern is raised about who will be responsible for managing and maintaining the new toilet facilities?
39. The existing toilets should be rebuilt on this development site to free up the more attractively landscaped park.

Wall and Steps -

40. Objection to the removal of the wall and park steps which are part of the park and are not considered to be surplus to requirements, not owned by the developer and not in the site area edged red. Removing the steps to the

park will take away the right of public access to the park from Pier Street. The replacement steps should be of a quality to match the cut and dressed stone of the existing.

Impact on drainage and flooding -

41. Objection that development will exacerbate existing sewage, drainage and flooding problems in the area to the detriment of human health and the quality of the water environment. It is reported that the service lane to the rear often floods when drains in the locality become full or blocked. It is suggested that it is for the developer to demonstrate that the sewerage system can cope with any proposed development.
42. Further development serviced by the existing sewers will pose a health hazard to the environment and human health. (West Hoe beach met the required standard for a "basic Pass" under European Standards, which is defined as waterborn pathogens being present in levels known to cause illness.)

Impact during construction works -

43. Concern about the disruptive impact of the construction not only on local residents and children in the adjoining park, but also local businesses, in terms of construction traffic, noise, dust etc.
44. Concern about potentially dangerous disruption caused by unexploded bombs being uncovered during excavation and also regarding the impact of the development on underground tunnels that are alleged to exist beneath the site.

Comments on Design Revisions:

45. Objections are made predominantly on the basis that despite the "welcomed" yet minor design revisions, the modern design is considered inappropriate; the scale and massing remains dominant; and the development will result in loss of light to the park, railway and overlooking of neighbouring properties.
46. Concern is raised that the proposed 6 public toilets will be insufficient to cope with demand, and concern is expressed that the new toilets should not be unisex use as this is not considered to be compatible with a children's playpark.

Other third party concerns -

47. Objection whether any more apartments are needed in Plymouth when already there are several that are still not occupied.
48. The development sets a precedent for development of the natural area of open space between the junction of Pier Street and the steps leading up to the Hoe.
49. To label the land as "surplus to requirements" without first consulting the local community or making any attempt to improve the appearance of the land is a violation of Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation. If the site is to be sold, the local community and people of Plymouth should be involved in deciding what happens to it.

50. The planning committee must consider the views of a very large number of Plymouth citizens who have expressed their opposition to the proposed development.
51. Development of the site will remove forever any opportunity of returning this parcel of land to West Hoe Park for the use of the population as a whole.
52. It is questioned why the Council has not made an application to recognise the Hoe as a UNESCO World Heritage Site which would bring the city immense prestige and substantial economic benefit. The proposed development would potentially have a negative effect on any assessment for such recognition.
53. This parcel of land was given by Lady Astor for the recreation of the residents and visitors to the Hoe and the development makes a mockery of Lady Astor's good intentions.
54. The poor state of the existing bare land is considered to be due only because of historic mishandling by Plymouth City Council. The state of the site, which is due to neglect, cannot be used to support the case for development in accordance with guidance contained in PPS5.
55. Confusion as to whether the S106 is paid into a central "pot" or whether it is ring fenced to specific areas.
56. The developer should be required to pay compensation in the form of a financial contribution to a local resident whose private outlook is affected.
57. The Committee is urged to take account of the financial history of the developer.
58. One letter of concern requests that the Council declares publically what its intentions are for the role and location of the existing commercial park train, bouncy castle and amusement ride and also what is going to happen to the existing public toilets and public shelter.
58. If this development is to go ahead, it is considered that the developer should be required to undertake substantial repair and rectification work, with an ongoing annual allowance for upkeep, of the Historic West Hoe Pier and Harbour which has fallen into a very poor state of disrepair.
59. Seven letters raise concern that the Planning Officer's report prepared for the Planning Committee on the 22nd September was written prior to the expiry of the deadline for receipt of comments on the revised plans.

Letter of Support:

I. One letter of support has been received which states that one floor less with a green roof will be a small improvement and underground parking will help minimise the area taken up by the building and help keep grass clear for children's use in the future.

Analysis

Prior to application submission, detailed pre-application discussions took place with officers.

The application should be assessed primarily against adopted Local Development Framework Core Strategy. This report therefore has due regard to the following policies: CS01 (Sustainable Linked Communities); CS02 (Design); CS03 (Historic

Environment), CS13 (Evening/Night-time Economy Uses); CS18 (Plymouth's Green Space), CS20 (Sustainable Resource Use); CS21 (Flood Risk), CS22 (Pollution); CS28 (Local Transport Considerations); CS32 (Designing Out Crime); CS33 (Community Benefits/Planning Obligations) and CS34 (Planning Application Considerations).

Consideration should also be given to the National Planning Policy Framework Consultation Draft (Revised August 2011), PPS1 - Delivering Sustainable Development, PPS3 – Housing, PPS5 – Planning for the Historic Environment, PPS9 – Biodiversity, PPG13 – Transport, PPG17 – Planning for Open Space, Sport and Recreation, PPS22 – Renewable Energy, PPS23 – Pollution Control, PPG24 – Noise, PPS25 – Development and Flood Risk, adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009), adopted Planning Obligations and Affordable Housing Supplementary Planning Document (2010), draft Hoe Area Action Plan.

The key issues in this case are:

- 1) The impact of the development on the appearance and character of the Hoe Conservation Area and setting of listed buildings in the locality. (Policy CS01, CS02, CS20, CS32 and CS34 of the Adopted Core Strategy)
- 2) Impact upon the amenities of neighbouring properties and uses (Policy CS02 and CS34 of the Core strategy)
- 3) Impact on West Hoe Park (Policy CS01, CS02, CS03, CS34 of the Core Strategy)
- 4) The adequacy of access and parking arrangements and the impact of the development on the highway network (Policy CS01, CS02, CS28, CS32 and CS34 of the Core strategy)

The impact of the development on the appearance and character of the Hoe Conservation Area and setting of listed buildings in the locality.

Planning Policy Statement 1 (PPS1) sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 establishes the Government's firm commitment to creating sustainable communities. It emphasises that good planning is critical to realising this commitment through delivering this objective. Guidance on quality of design is clear: *Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning'* (para 33)

Good design should contribute positively to making places better for people (para 34) Thus planning authorities should plan positively to secure high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted: *High quality design ensures usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is not just about the architecture of individual buildings, but also about the functionality and impact of the development on the overall character, quality and*

sustainability of an area including resources efficiency (for example energy consumption) There should be no acceptance of ill-conceived designs which do not contribute positively to making places better for people.

The application site lies within The Hoe Conservation Area such that, for the purposes of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, there is a duty to have regard to the desirability of preserving or enhancing the character or appearance of the area.

For completeness however, for the purposes of interpretation of S72, it should be noted that a material planning consideration with respect to case law *South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204 in which it was held that, “*there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve. Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.*”

In the context of the above, the designated conservation area clearly constitutes a heritage asset for the purposes of guidance contained in PPS5 and, therefore, policy HE7 is of relevance to this proposal. Policy HE7.5 provides that, “*local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.*” Insofar as the application site historically comprises an integral part of the built environment of The Hoe, and presently detracts from the character and appearance of the area in terms of its weak resolution to this important corner site in terms of its streetscape function, the construction of a substantial building would be fundamentally beneficial in townscape terms.

A well detailed, contemporary design proposal is considered entirely appropriate for a development site within a conservation area provided its scale, massing and detailed design is in keeping with the appearance and character of the area.

This point is further recognised by English Heritage in its consultation response where, in acknowledging the complex context of the site, it states that the complex brief which such a scheme will need to respond to may strongly suggest that a more contemporary approach is preferred. Such an approach is considered to be fully supported by adopted Core Strategy Policies CS02 and CS03 and Government advice contained within PPS1 and PPS5.

Whilst maintaining concerns regarding the height and massing, predominantly concerning the originally proposed fifth floor pavilion (now deleted) and fourth floor design (now reduced in scale), English Heritage is supportive of the detailed architectural design proposed, advising that “*The building possesses a vertical ordering and horizontal rhythm to provide contemporary but contextually informed architecture whose idiom sits comfortably next to its historic neighbours along the sea front. The solid to void ratio of the principal elevational handling, lightness of touch and essentially domestic flavour provide the transitional style which is*

necessary in this location. The success of such an architectural approach will be dependent on attention to detail and quality in execution but in principle has much promise“.

However, in commenting on the revised plans, English Heritage has stated that it considers that whilst the scale and massing of the development with respect to the adjoining Grand Parade Terrace is “not too unreasonable” when seen in its south elevation in isolation, it remains concerned about the over dominant relationship of the development to the neighbouring properties to the rear on Pier Street and when viewed from the east on the basis that the revised design could still cause a degree of significant harm to the character and appearance of the conservation area and that, in accordance with PPS 5, public benefits must be evident to justify approval (policies HE7.5 & HE9.4).

It should be noted that the properties on Pier Street are not in fact located within the Hoe Conservation Area, as the boundary runs to the rear of the application site, but the impact of the development in relation to these buildings and the setting of the adjoining Conservation Area remains a material planning consideration.

CGI photo-realistic images have now been produced by the architects in response to English Heritage’s concerns regarding the impact of the development on the Conservation Area when viewed from the north east of the site. In the opinion of officers, these images are considered to demonstrate that when viewed in context of the surrounding buildings, the design, scale and massing will not have a significant adverse impact upon the appearance and character of the Conservation Area and contrary to the opinion of English Heritage it is considered by officers that it is not reasonable to argue that the development will cause a degree of significant harm. The revised design which now deletes the originally proposed fifth floor and reduces the scale of the fourth floor, has been carefully designed to be sympathetic to the scale of buildings both on Hoe Road and Pier Street and creates a more positive resolution to this important corner site and strengthens the streetscape.

Locally distinctive references such as the use of projecting bay winter gardens designed to respect the scale of projecting bay windows on Pier Street albeit in a contemporary manner and the strong vertical rhythm these create, respects that created on the adjoining Grand Parade building.

Further locally distinctive references are achieved on the Hoe Road, Pier Street and Park façades through the introduction of a horizontal loggia oversailing the whole of the recessed ground floor, which reflects the rhythm of buildings further down Grand Parade, in addition to creating a quality frontage onto the park with active ground floor commercial unit to acknowledge the importance of the park. The ground floor commercial unit is strongly supported in terms of helping to achieve the Vision for Plymouth aspiration for the creation of a vibrant, active street scene.

The revised design, scale and massing of the proposed development is therefore considered by officers to be in keeping with development in the locality and will make a positive contribution to the character and local distinctiveness of the historic environment and wider Hoe Conservation Area in accordance with guidance contained in PPS5 (Para 7.5) and adopted Core Strategy policies CS02 and CS03.

The development is not considered to have an adverse impact on the setting of the Listed Buildings on the Hoe such as the Grand Hotel, Elliot Terrace or Smeaton's Tower, and does not have a significant adverse impact upon the Hoe vista when viewed from both local and distant vantage points.

The development therefore accords with the Hoe Conservation Area Appraisal and Management Plan 2008, adopted policies CS01, CS02, CS32 and CS34, the Council's adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009), draft Hoe Area Action Plan and Government guidance contained in PPS1, PPS3 and PPS5.

The Impact upon the amenities of neighbouring properties and uses

It is acknowledged that due to its siting, height and massing, the development will have an impact upon the outlook currently enjoyed by neighbouring and adjoining properties.

Third party representations expressed by residents of the adjoining residential developments who currently enjoy unimpeded views over the site out to the Sound and Hoe, raise concerns about the resultant impact on their private views. Concern regarding the impact of a development on private views and/or property values is not a material planning consideration.

In terms of overlooking and sunlight issues, the distance of the rear of the proposed development to the end gable of the nearest neighbouring property on Pier Street ranges between approximately 8-10m. This increases further to a maximum of 12m with respect to the relationship with the rear tenements on Pier Street.

It is noted that the windows in the end gable of the property on Pier Street are secondary windows to sitting rooms which have primary bay windows facing Pier Street. The remaining windows in the tenement are bedroom windows, bathroom windows, kitchen windows and a dining room window. It is acknowledged that the relationship between the rear of the proposed building and the end building on Pier Street adjoining the site is at the maximum that could be supported by officers. However, taking into account the City Centre location, the relationship and orientation of the development to adjoining properties is not considered by officers to be unreasonable and is not considered to have a significant adverse impact in terms of overlooking, loss of privacy or upon the levels of sunlight enjoyed by existing residents.

This conclusion is also based on the submitted Daylight and Sunlight Study which has been carried out in accordance with Building Research Establishment (BRE) good practice guidance Digest 209 and requirements of the British Standard, BS 8206 Part 2.

It is demonstrated that although the development will result in a degree of overshadowing of the neighbouring properties, they will still continue to receive adequate levels of daylight and sunlight within the dwellings and the surrounding amenity areas in accordance with BRE guidelines.

The BRE guidelines advise that Sunlight is measured in terms of how many hours of sun a window will receive over the course of a year. The BRE sunlight tests are only applicable to main windows which face within 90 degrees of due south. The BRE guidance recommends that main windows should receive at least 25% of the total annual probable sunlight hours, including at least 5% of the annual probable sunlight hours in the winter months between 21st September and 21st March. Sunlight availability will be adversely affected if the total number of sunlight hours falls below these targets and is less than 0.8 times the amount prior to the development.

In the case of the proposed development the degree of sunlight availability is not considered to conflict with the BRE guidelines identified above. It follows that this will also increase in the summer months.

In conclusion, the revised height and relationship of the proposed development to the existing development is not considered to be excessive in relation to the impact on neighbouring properties and the urban street scene.

On balance, taking into account the siting and design of the buildings in relationship to the neighbouring properties and city centre location, the impact of the development upon neighbouring residents is considered by officers to be satisfactory and complies with policy CS34 (Planning Application Considerations).

The impact of the development upon West Hoe Park

Whilst the development site does not physically encroach on West Hoe Park, it is acknowledged that due to its siting, height and massing, the development will have an impact upon West Hoe Park, in terms of the outlook from the park and views into and across the park from close up and distant vantage points.

In addition the submitted Daylight and Sunlight Study which has been carried out in accordance with Building Research Establishment (BRE) good practice guidance 209 and requirements of the British Standard, BS 8206 Part 2, demonstrates that the development will result in a degree of overshadowing of the park in the afternoon.

The BRE guidelines advise that for gardens and open spaces to appear to be adequately sunlit throughout the year, no more than 40% (two fifths) and preferably no more than 25% (one quarter) of any such space should be prevented by buildings from receiving any sun at all on the 21st March. It follows that if some sun is received on the 21st March, there will be increased sunlight levels over the summer months.

In the case of the proposed development the degree of overshadowing on the 21st March is considerably less than 40%, covering an area of the park in the afternoon only, of less than 10%. It follows that this will reduce in the summer months. On this basis the degree of overshadowing on West Hoe Park is considered to be insignificant and a refusal of the planning application on this basis is not justifiable.

In terms of the impact on views into and out of the park, as previously stated within this report, the building has been carefully designed to be sympathetic to the scale of buildings both on Hoe Road and Pier Street and is considered by officers to enhance the built environment by creating a more positive resolution to this important

corner site at the boundary of the park, strengthening the streetscape and creating an active frontage with improved natural surveillance onto the park itself.

In the context of the whole of the park area, views into and out of the park of the Sound and Drakes Island are already relatively restricted to varying degrees depending on where within the park you stand due to the topography of the park and the existence of the foreshore boundary wall. On this basis the impact of the development on the outlook of the park is considered to be insignificant.

The impact on the microclimate within the park is considered by officers to be a positive one. As previously reported, the degree of over shadowing is not considered to be significant both in terms of the small proportion of the area of the park affected and also due to the amount of time during the year the overshadowing occurs. The development would provide a degree of shelter to the park from the south westerly prevailing winds. On balance, the impact on the microclimate within the park is considered to be acceptable.

The impact of the development in terms of direct overlooking from the apartments onto the park is considered by officers to be a positive one as it increases natural surveillance of the park, an area within which it is noted has previously experienced relatively high levels of anti-social behaviour centred in and around the public conveniences. Increased natural surveillance of this space would be likely to help reduce this situation.

Third party concerns regarding potential Child Protection issues are not considered to have any merit as the existing park is already overlooked by the adjoining apartments and houses, and this situation is considered to be no worse than that which exists on the existing children's play park on Pier Street or at many of the parks and children's play areas around the city.

On balance therefore, the impact of the development on the park is considered to be satisfactory and is not considered to be so significant as to warrant a refusal of the planning application. The development does not set a precedent for development of West Hoe Park itself. On this basis the development complies with policy CS34 (Planning Application Considerations) and Planning Policy Guidance contained in PPG17.

It is also noted that the Garden History Society, whose interest is to promote the protection and conservation of historic parks, gardens and designed landscapes does not wish to comment on the application.

The adequacy of access and parking arrangements and the impact of the development on the highway network

The Highway Authority reports that the increase in traffic associated with a development of this size does not cause concerns on the local highway network in terms of capacity. The site is within close proximity to the City Centre, Local shops and facilities and Public Transport links. The proposed parking provision of 1.5 spaces per unit is in accordance with current standards. A condition is recommended to ensure that a satisfactory internal car parking layout is achieved.

The proposed basement access is proposed via the service lane adjacent to the site which is designated as a Highway Maintainable at Public Expense and therefore in the full control of the Highway Authority. It is noted that the southern side of the road is controlled by on-street parking restrictions in the form of double yellow lines. The northern edge currently has 23metres in length of resident permit parking bays. These bays commence approximately 2metres from the junction to Pier Street. The applicant has provided tracking plots which demonstrate that adequate access provision can be made into and out of the basement access.

However, inter-visibility between the access and the junction to Pier Street is limited and should two cars meet it is likely to result in reversing manoeuvres. This can occur at present and a vehicle reversing onto Pier Street does cause concern. As such the developer will be required to reduce the length of the existing permit parking bay and relocate the lost spaces to Pier Street. There is adequate length available between the Hoe Road roundabout and the access lane to provide an increase in the total number of permit bays, in place of the existing double yellow lines. This will be of benefit to existing residents, due to an increase in parking provisions for permit holders but will ultimately ensure that a vehicle can enter the access lane and wait to let an exiting vehicle pass. This will be the subject of a Traffic Regulation Order.

Contrary to concerns raised regarding the potential for the development to create an accident blackspot at the road junction due to its siting, the Highway Authority does not consider that the siting of the development will adversely affect visibility at the junction nor have any adverse impact on highway safety at this point.

On this basis, the Highway Authority does not object to the proposed development.

The proposed secure cycle storage is considered to be sufficient and the ongoing use of this space will be secured by condition.

The site lies within a resident parking permit scheme which is currently over-subscribed. As such the new development will be excluded from obtaining permits or visitor tickets. An informative is recommended accordingly. The proposed secure cycle storage is considered to be sufficient and the ongoing use of this space will be secured by condition.

The development is therefore considered to have an acceptable impact upon the highway network and accords with adopted Core Strategy Policies CS01, CS02, CS28 and CS34, together with Government advice contained in PPS1 and PPG13.

Sustainable Resource Use

National Planning Policy Framework Consultation Draft (Revised August 2011) states a presumption in favour of sustainable development. The building is considered to be a sustainable development as it is designed to achieve the requirements of the Code for Sustainable Homes Level 3 or better, and proposes a green roof in addition to the installation of a Biomass Boiler for its heating and hot water requirements.

Adopted policy CS20 requires that the development incorporates on-site renewable energy production equipment to off-set at least 15% of predicted carbon emissions for the period 2010-2016.

An appropriate condition is recommended to ensure the development delivers the above policy requirement to offset at least 15% of predicted carbon emissions. On this basis the development will accord with the requirements of Policy CS20 and Government advice contained within PPS22 and the draft National Planning Policy Framework.

Lifetime Homes

Policy CS15 requires that 20% of all new dwellings for Plymouth shall be constructed to Lifetime Homes Standards. Lifetime homes allows for the 'future proofing' of all new dwellings and should be considered desirable in all cases.

A condition is recommended to ensure that a minimum of 20% of the apartments provide accessible and adaptable accommodation for everyone in accordance with the Lifetime Homes guidance. Provisions to meet these standards will include design for future provision of stair lifts or through-floor lifts, an entrance level WC and provision or potential for conversion for a ground floor bed space.

On this basis the development will fully accord with policy CS15 of the Core Strategy.

Other Matters

Covenant – The references to the 1913 Restrictive Covenant that applies to this land are noted. The existence of a Civil Covenant on this site is not a material planning consideration. Any grant of planning consent would not override the clauses of the Covenant.

The terms of the Covenant clearly enable any land sold as surplus by the Council to be used for dwellings and shops. The former tennis courts were sold by the Council as surplus.

The Council also complied with all statutory requirements under the Local Government Act 1972 in disposing of this site.

The planning application is, in any event, an entirely separate issue to the covenants and it is for the developer, not the Council, to satisfy itself that its proposed development will not breach these covenants.

Planning Brief - The Planning and Design Brief produced by the Council serves purely as a guideline to potential developers and as it has no formal status and carries considerably less weight than if it were a formally adopted document. The weight to be accorded to it will be balanced against several material planning considerations which need to be taken into account when considering any development proposal on this site.

Implications for potential UNESCO World Heritage Site – The concern raised that the development could have negative effect on any future potential application for the Hoe to achieve recognition as a UNESCO World Heritage Site is not a material planning consideration.

Surface Water Drainage – In accordance with Environment Agency Standing advice, the main flood risk issue is the management of surface water run-off. Local representations report localised surface water drainage problems exist and accordingly, a condition is recommended requiring a well designed surface water drainage system to be provided in accordance with details to be submitted prior to any development commencing. South West Water does not raise any objections to the proposed development.

Biodiversity - The proposed development proposes an extensive green roof system which will result in a net gain in Biodiversity in accordance with adopted Core Strategy Policy CS19 and Government advice contained in PPS9.

Impact during construction works – Concerns regarding the potential for the construction phase of the development to cause disruption to existing residential uses are noted. Whilst it is acknowledged that this is a city centre site where a level of disruption can be reasonably expected during redevelopment or construction work occurring on development sites in the locality, it is considered to be appropriate to impose restrictions through planning conditions on the developer's construction practice (Code of Construction). This includes restricting hours of construction deliveries, construction vehicle routes through the city and requiring appropriate mitigating measures for noise, vibration, dust and smell nuisance. A condition to address this matter is recommended accordingly.

Wall and Steps – The removal of the existing narrow and steep park steps off the end of the Pier Street Service Lane and their replacement with improved, wider steps with handrail within the external development footprint, designed to modern ambulant disabled standards is considered to be an obvious benefit to users of the park and is fully supported. A condition is recommended to ensure this access is retained for permanent public access.

Public Conveniences – The existing public conveniences within West Hoe Park are the subject of ongoing anti-social behaviour. The proposed development proposes new, fully accessible public toilet facilities which would facilitate the potential future removal of the existing toilet building. This has the potential to enable the existing toilet building to be removed to the wider benefit of West Hoe Park and is considered to be acceptable. The Council has confirmed that the number of toilets are considered to be adequate for the anticipated demand.

Although appropriately designed and managed unisex toilet facilities are considered by officers to be appropriate for the development, it is noted that the application proposes separate male and female toilet facilities.

A condition is recommended to ensure that details of the proposed design, layout and management regime for the public toilets are submitted to and agreed in writing with the Local Planning Authority.

Non material planning considerations – The suggestion that the developer should pay compensation to local residents whose private outlook is affected, the suggestions that the Council should look at the financial history of the developer and the question of whether additional apartments in this locality are actually needed, are not material planning considerations.

In response to the concern raised that the planning officer's report for the 22nd September Planning Committee was written prior to the expiry of the deadline for receipt of comments on the revised plans, it is noted that in accordance with the standard practice of the Authority, any letters of representation received between the date of writing the officer's report and Planning Committee on the 22nd September were originally reported within the addendum report and also verbally reported to Committee Members at Planning Committee.

Human Rights Act

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Section 106 Obligations

The proposed development would have direct impacts on local infrastructure and the environment requiring mitigation. This mitigation will be achieved through a combination of planning conditions and planning obligations identified in a S106 agreement. Each planning obligation has been tested to ensure that it complies with the three tests set out in Reg.122 of the Community Infrastructure Levy Regulations April 2010.

The impacts relate to the following areas:-

Local Infrastructure:

1. Libraries

By reason of the increased population facilitated by the development and the increased demand for use of library services in the locality, Library Services advise that development in this area will generate a pressure on the existing Central Library facility which The Planning Obligations Evidence Base advises is already in need of additional capital investment as a result of the cumulative impact of population growth. The development will therefore generate an impact that needs to be mitigated. The estimated cost of mitigating this impact is £2,604.

2. Local Children's Play Space –

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact on existing play facilities, most specifically an additional pressure on its management. There is therefore an impact on children's

playspace that needs to be mitigated. The estimated cost of mitigating this impact is £5,362.

3. Playing Pitches.

The Plymouth Playing Pitch Strategy 2007-2016 identifies that the South Sub Area of the city is deficient in terms of access to playing pitches. There is therefore an impact on infrastructure requirement that arises as a result of the development, namely the provision of improved access to playing pitches. The estimated cost of mitigating this impact is £13,588.

4. Schools

The Lifelong Learning Department confirms that the development has the potential to place a demand for school places in the South West and South East Localities. The Council's Children's Services have provided evidence that there is likely to be a deficiency of school places in the locality from 2012 given projected population growth. There is therefore an impact on schools that needs to be mitigated. The estimated cost of mitigating this impact is £32,193.

5. Strategic Greenspace

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the quality of environmental sites protected by legislation, particularly through increased recreational demands. The Council's has a obligation through the Habitats Regulations Assessment of the Local Development Framework Core Strategy and relevant Development Plan Documents to seek mitigation for such cumulative impacts. The estimated cost of mitigating this impact is £16,708

6. European Marine Site

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the environmental quality of European Marine Site particularly through increased recreational demands. The Council's has an obligation through the Habitats Regulations Assessment of the Local Development Framework Core Strategy and relevant Development Plan Documents to seek mitigation for such cumulative impacts. The estimated cost of mitigating this impact is £396

7. Strategic Sports Facilities

By reason of the increased population facilitated by the development and the increased demand for use of sports facilities, it will contribute to the cumulative impact of development on the city's sports infrastructure. The estimated cost of mitigating this impact is £10,676

8. Strategic Public Realm

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the City Centre's public realm. This is because there will be a greater level use of the City Centre which itself generates extra pressure on the existing infrastructure. The estimated cost of mitigating this impact is £1,270

9. Strategic Transport

By reason of the increased population facilitated by the development and the increased demand for journeys, it will contribute to the cumulative impact of development on the city's strategic transport infrastructure. This will bring the likelihood of increased congestion and pollution unless there is adequate mitigation. The estimated cost of mitigating this impact is £57,006

The total estimated cost of mitigating these impacts would be £139,802 if this is to be delivered through financial contributions.

A Planning Obligations Management Fee of £9,197 would also be required. This management fee will be used to meet the Council's costs in administering and monitoring implementation of the Section 106 Agreement.

The applicant has indicated that they wish to have the application considered under the Council's Market Recovery Scheme, which aims to support development delivery when viability is a major constraint. The applicant is prepared to accept the terms of the Scheme to make a substantive start on site within 2 years. The early delivery of this project is considered to be a weighty material consideration in its own right, sufficient to justify a limited relaxation of the Council's policy requirements for mitigation of development impacts, in accordance with the Market Recovery Scheme. This enables the proposal to benefit from up to a 50% discount on developer contributions.

Given that the development will not provide for the complete mitigation of its impacts, it is necessary to ensure that the planning contributions are allocated to the address the impacts of greatest need. The following priorities are recommended, having regard to priority strategic infrastructure requirements and the specific needs of the neighbourhood within which the development is located.

Section 106 Obligation Heads of Terms:

The following Heads of terms are therefore proposed to offset the impact of the development on Local and Strategic Infrastructure, each of which have been tested against Regulation 122 of the Community Infrastructure Levy Regulations 2010, to enable appropriate mitigation of the impacts identified above:

1. £69,901 financial contribution towards off-setting the impact of the development on Local and Strategic Infrastructure in accordance with the Plymouth Obligations and Affordable Housing SPD, payable upon commencement of development.

This amount can be broken down as:

Local Infrastructure:

Schools (South West and South East Localities) - £16,096

Libraries (Central) - £1,302

Children's Play Space - £2,681

Playing Pitches (South Sub Area) - £6,794

Strategic Infrastructure:

Greenspace - £8,354
European Marine Site - £198
Sports Facilities - £5,338
Public Realm - £635
Transport - £28,503

The above Heads of Terms have been agreed with the applicant.

Equalities & Diversities issues

The building will be available to men and women, people of all faith and race groups.

The building will be designed to be fully accessible in accordance with Part L of the Building Regulations.

At least 20% of the units will be designed to Lifetime Homes criteria and therefore they will incorporate a design that maximises utility, independence and quality of life, while not compromising other design issues such as aesthetics or cost effectiveness. Housing that is designed to the Lifetime Homes Standard will be convenient for most occupants, including some (but not all) wheelchair users and disabled visitors, without the necessity for substantial alterations.

The benefits to all groups will therefore be positive as it will provide accessible residential accommodation close to the city centre.

No negative impact on any of the equality groups is anticipated.

Conclusions

The impact of the development on the appearance and character of the area; The impact of the development upon West Hoe Park; The impact of the development upon neighbouring properties and the impact of the development upon the highway network is considered to be acceptable and it is recommended that the development proposal be granted conditional consent subject to the satisfactory completion of the Section 106 Obligation. Delegated Authority is sought to refuse the application if the S106 Obligation is not signed by the 10th October 2011.

Recommendation

In respect of the application dated **15/07/2011** and the submitted drawings Deletion of fifth floor accommodation and roof terraces, revisions to green roof; minor revisions to fourth floor footprint and height; revisions to ground floor internal layout 10123.L01.00 Rev A, 10123.L02.10 Rev P2, 10123.L04.07.Rev P2, 10123.L04.01 Rev P2, 10123.L04.03 Rev P2, 10123.L04.05 Rev P2, 10123.L02.11 Rev P2, 10123.L04.08 Rev P2, 10123.L04.02 Rev P2, 10123.L04.04 Rev P2, 10123.L04.06 Rev P2, Roof Garden Rev B, Demolition Plan 10123.L09.05, Drainage Layout 9861.540 Rev P1, Statement of Community Involvement, Design and Access Statement, Phase 2 Preliminary Geotechnical Report, Renewable Energy Feasibility Study, Daylight, Sunlight and Overshadowing Study Rev P2, Photo Visualisations:

10123.L04.09 Rev P1, 10123.L04.06 Rev P1, 10123.L04.05.Rev P1 (for information only), it is recommended to: **Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 10th October 2011**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 2 YEARS

(1) The development hereby permitted shall be begun before the expiration of two years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004, and due to concessions in Planning Obligation contributions/requirements under Plymouth's temporary Market Recovery measures.

ACCORDANCE WITH PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans 10123.L01.00 Rev A, 10123.L02.10 Rev P2, 10123.L04.07.Rev P2, 10123.L04.01 Rev P2, 10123.L04.03 Rev P2, 10123.L04.05 Rev P2, 10123.L02.11 Rev P2, 10123.L04.08 Rev P2, 10123.L04.02 Rev P2, 10123.L04.04 Rev P2, 10123.L04.06 Rev P2, Roof Garden Rev B, Demolition Plan 10123.L09.05, Drainage Layout 9861.540 Rev P1, Statement of Community Involvement, Design and Access Statement, Phase 2 Preliminary Geotechnical Report, Renewable Energy Feasibility Study, Daylight, Sunlight and Overshadowing Study Rev P2, Photo Visualisations: 10123.L04.09 Rev P1, 10123.L04.06 Rev P1, 10123.L04.05.Rev P1 (for information only)

Reason: To ensure that the development accords strictly with the submitted plans hereby approved in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy

DESIGN DETAILS

(3) Notwithstanding the submitted details, the development hereby permitted shall not commence until the following details (to include drawings including sections at a scale of not less than 1:20 with key details at a scale of 1:10) have been submitted to and agreed in writing with the Local Planning Authority:

1. Details of the design, method of construction and finish of the winter garden bays (including balconies, balustrades, frames, spandrel panels and junctions with ground floor loggia/colonnade, stone and render);
2. Details of the design, method of construction and finish of the windows including junctions with head, cill's and jambs;
3. Details of the design, method of construction and finish of the ground floor loggia/colonnade including soffit and lighting adjacent to commercial unit;

4. Details of the design, method of construction and finish of the principal entrance doors and ground floor commercial unit window system, including junctions with ground floor loggia/colonnade together with details of the basement garage door/gate;
5. Details of the design, method of construction and finish of the junctions between stone, render and concrete including parapet at 4th floor;
6. Details of the design, method of construction and finish of the 4th floor penthouse including details of the curtain walling system, soffits, stone clad columns, walls and eaves;
7. Details of the design, method of construction and finish of the access gates to lower ground level;
8. Details of the design, method of construction and finish of the boundary railings/stone plinths, details relating to the infill of the existing steps and replacement boundary wall adjacent to the highway and junctions with ground floor loggia/colonnade;
9. Details of the siting, design, method of construction and finish of a fume extraction system for the ground floor commercial unit.
10. Details of the proposed siting, design and external materials of any roof plant, services or lift rooms and any wall or roof vents, ducts, pipes or other accretions to the roof or elevations. Unless otherwise agreed in writing with the Local Planning Authority, before any roof plant and/or machinery is used on the premises, it shall be enclosed with sound insulating material and mounted in such a way which will minimise the transmission of structure borne sound in accordance with a scheme to be approved in writing by the Local Planning Authority.

The above details shall be strictly adhered to during the course of development and thereafter be so retained and maintained.

Reason

To enable the Local Planning Authority to consider the above details in the interests of the appearance and character of the building and locality, in accordance with Policies CS01, CS02, CS03 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007

CODE OF PRACTICE DURING CONSTRUCTION

(4) Prior to the commencement of the development hereby approved, a detailed management plan for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the management plan.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

EXTERNAL MATERIALS

(5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

SURFACING MATERIALS

(6) No development shall take place until details/samples of all surfacing materials to be used have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LANDSCAPE DESIGN PROPOSALS

(7) No development shall take place until full details of the soft landscape planting scheme for the green roof and a programme for its implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to occupation of the building. These details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; the implementation programme].

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LANDSCAPE MANAGEMENT PLAN

(8) A landscape management plan, including long term objectives, management responsibilities and maintenance schedules of landscape maintenance for a minimum of five years for the green roof, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development for its permitted use and shall thereafter be carried out in accordance with the approved schedule.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

GRAMPIAN

(9) Notwithstanding the submitted details of the proposed access and highway improvements, no development shall commence on site until details of the proposed access and improvements to the existing highway have been submitted to and agreed in writing by the Local Planning Authority. Such agreed details shall be strictly adhered to during the course of development. The development shall not be occupied until the approved access and highway improvements have been completed on site.

Reason:

In the interests of highway and pedestrian safety in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

DETAILS OF NEW JUNCTION

(10) Development shall not begin until details of the junction between the proposed service road and the highway have been approved in writing by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason:

To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

ACCESS

(11) Before any other works are commenced, an adequate road access for contractors with a proper standard of visibility shall be formed to the satisfaction of the Local Planning Authority and connected to the adjacent highway in a position and a manner to be agreed with the Local Planning Authority.

Reason:

To ensure an adequate road access at an early stage in the development in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

CYCLE STORAGE

(12) The secure area for storing cycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

To ensure that there are secure storage facilities available for occupiers of or visitors to the building. in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

REINSTATEMENT OF FOOTWAY

(13) No unit of accommodation shall be occupied until the existing footway crossing (now redundant) has been removed and the footway reinstated.

Reason:

In the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

PROVISION OF PARKING AREA

(14) Notwithstanding the details of the car parking shown on the submitted plans, no work shall commence until details of the design and layout of each car parking space has been submitted to and agreed in writing by the Local Planning Authority.

Each parking space shown on the subsequently approved plans shall be constructed, drained, surfaced and made available for use before the unit of accommodation that it serves is first occupied and thereafter that space shall not be used for any purpose other than the parking of vehicles.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

OPENING HOURS

(15)The use hereby permitted shall not be open to customers outside the following times: 08.00 - 23.00 hours Mondays to Sundays.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LIFETIME HOMES STANDARDS

(16) Notwithstanding the submitted drawings, unless otherwise previously agreed in writing with the Local Planning Authority, at least 20% of the residential units hereby permitted shall be first constructed and subsequently maintained to Lifetime Homes standards in accordance with details (including details of the precise siting of the specific units) which shall have been previously submitted to and agreed in writing by the Local Planning Authority. Unless otherwise agreed previously in writing with the Local Planning Authority, the approved details shall be fully implemented prior to completion of the development or occupation of the 20th residential unit (whichever is the sooner) and thereafter so maintained and retained.

Reason:

In order to meet the needs of disabled people so that they may live as part of the community in accordance with adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007 Objective 10, Policy CS15, and relevant Central Government advice.

COMMERCIAL WINDOW DISPLAYS

(17) Unless otherwise previously agreed in writing with the Local Planning Authority, at least 75% of the ground floor commercial unit display windows shall be constructed so as to permit open views into the commercial unit. For the avoidance of doubt, no more than 25% of the total display window area shall be obscured in whole or in part by walling, screening, obscure glazing or other such similar fixed or applied screening.

Reason:

In order to maximise the extent of visibly active ground floor uses in the interests of the appearance and character of the building and locality and in accordance with adopted Core Strategy policies CS01, CS02, CS34 and relevant Government advice contained in PPS1 and PPG6.

SUSTAINABILITY

(18) Unless otherwise agreed previously in writing with the Local Planning Authority, prior to any development taking place, the applicant shall provide to the Local Planning Authority a report for approval identifying how for the period up to 2016, a minimum of 15% of the carbon emissions for which the development is responsible will be off-set by low carbon production methods. The carbon savings which result from this will be above and beyond what is required to comply with Part L Building Regulations.

Unless otherwise agreed in writing, the approved on-site renewable energy production methods shall be provided in accordance with these details prior to the first occupation of the development and thereafter retained and used for energy supply for so long as the development remains in existence.

Reason:

To ensure that the development incorporates onsite renewable energy production equipment to off-set at least 15% of predicted carbon emissions for the period up to 2016 in accordance with Policy CS20 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and relevant Central Government guidance contained within PPS22.

COMMERCIAL DELIVERIES AND COMMERCIAL WASTE COLLECTION RESTRICTION

(19) Unless otherwise agreed previously in writing with the Local Planning Authority, all commercial deliveries and commercial waste collection to the ground floor commercial unit shall be made within the following hours Monday - Sunday 8am-6pm.

Reason:

To protect existing and proposed residents from potentially noisy activity outside reasonable hours in accordance with policy CS13, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

DESIGN, MANAGEMENT AND ACCESS OF TOILET FACILITIES

(20) Unless otherwise agreed previously in writing with the Local Planning Authority, notwithstanding the submitted drawings, details of the design and layout of the

public toilet facilities together with details of the public toilet opening times, maintenance schedule and management responsibilities shall have been submitted to and approved in writing prior to occupation of the development and the public toilet facilities shall be constructed in accordance with the approved details and made available to the public prior to the occupation of any residential unit or use of the commercial unit commencing (which ever is the sooner).

Notwithstanding the submitted drawings, the use of the commercial unit shall not commence until details of the proposed toilet facilities to serve the commercial unit have been submitted to and agreed in writing by the Local Planning Authority. The approved commercial unit toilet facilities shall will remain open at all times that the commercial unit is in operation.

Reason:

To enable the Local Planning Authority to consider the details of the proposed commercial unit toilet facilities as establishments offering food and drink for consumption on the premises must have accessible toilet facilities for use by both patrons and food handlers, and to ensure that the public toilets are open to the public and managed and maintained to a satisfactory standard in accordance with Core Strategy policy CS34.

REPORTING OF UNEXPECTED GROUND CONTAMINATION

(21) In the event that contamination is found at any time when carrying out the development hereby approved that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MECHANICAL EXTRACTION PLANT HOURS OF OPERATION

(22) No mechanical extract ventilation system or other mechanical plant shall be operated on the premises outside the following hours:-

Monday to Sunday 08.00 - 23.00 hrs

Reason: To protect the residential and general amenity of the area from noise emanating from the operation of any mechanical plant and systems, and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MECHANICAL EXTRACT VENTILATION DETAILS

(23) Prior to commencement of use of the ground floor commercial unit, the applicant shall provide the Local Planning Authority with plans and specifications (including siting and design) in respect of any proposed mechanical extract ventilation system, which must be approved for use in writing prior to the installation of any such equipment.

Prior to submitting the report, the applicant should carry out a noise impact survey to establish current background levels and submit a report detailing the results of the survey and the likely impact on noise the mechanical extract ventilation system will make to these levels to the local Planning Authority. The information should outline details of methods proposed to reduce any noise caused by the operation of the mechanical extract ventilation system to ensure that the noise emanating from equipment (LAeqT) does not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the facade of the nearest residential property.

The information should include details of the design and route of the system including the ducting, and the proposed methods for reducing vibration and noise

caused by the operation of the system, including sound attenuation measures to prevent noise and vibration transmission through the system and the building fabric itself, together with details of methods to eliminate or reduce to an acceptable level cooking smells, and should include confirmation of any odour control methods proposed for use in conjunction with the system, i.e., filtration systems, odour neutralising systems, etc.

The approved scheme shall be implemented in accordance with the approved details. Any alteration or variation to the equipment should receive the prior written approval of the Local Planning Authority.

Reason: To protect the residential and general amenity of the area from vibration and noise emanating from the operation of any mechanical extract system, or odour emanating from the operation of the system or site, to avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MECHANICAL PLANT DETAILS

(24) Prior to use of the ground floor commercial unit commencing, the applicant must provide the Local Planning Authority (LPA) with plans and specifications in respect of any proposed mechanical plant, such as air conditioning or refrigeration condensers, or other similar equipment, which must be approved for use in writing by the LPA prior to the installation of any such equipment.

The applicant should carry out a noise impact survey to establish current background levels and submit a report detailing the results of the survey and the likely impact on noise the mechanical plant will make to these levels taking account of the cumulative effect of the mechanical extract ventilation plant to the local Planning Authority. The information should outline details of methods proposed to reduce any noise caused by the operation of the mechanical plant to ensure that the noise emanating from equipment (LAeqT) does not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the facade of the nearest residential property.

The approved scheme shall be implemented in accordance with the approved details. Any alteration or variation to the equipment should receive the prior written approval of the Local Planning Authority.

Reason: To protect the residential and general amenity of the area from noise emanating from the operation of any mechanical plant and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

NOISE

(25) Unless otherwise agreed in writing with the Local Planning Authority, all dwellings shall be constructed in accordance with BS8233:1999 so as to provide sound insulation against externally generated noise. The good room criteria shall be applied, meaning there must be no more than 30 dB LAeq for living rooms (0700 to 2300 daytime) and 30 dB LAeq for bedrooms (2300 to 0700 night-time), with

windows shut and other means of ventilation provided. Levels of 45 dB LAf.max shall not be exceeded in bedrooms (2300 to 0700 night-time).

Prior to any occupation of the development, the developer shall submit, for written approval by the LPA, a verification report proving that the dwelling meets the aforementioned criteria.

Reason: To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance from commercial users of West Hoe Park to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

USE OF REAR PUBLIC ACCESS STEPS

(26) Unless otherwise agreed previously in writing, the existing public access steps from the Pier Street Service Lane to West Hoe Park shall not be demolished or closed to the public until the new pedestrian access steps from the Pier Street Service Lane to West Hoe Park have been constructed in accordance with the approved plans and opened to the public. For the avoidance of doubt, the new public access steps shall be provided prior to occupation of any residential unit, and shall be kept permanently open and available for public access to the park unless an alternative public access link is provided in accordance with details to be submitted to and agreed in writing with the Local Planning Authority.

Reason

To ensure an adequate pedestrian access link is retained from Pier Street Service Lane to West Hoe Park in accordance with adopted Core Strategy Policy CS34.

TRAFFIC REGULATION ORDERS

(27) No development shall commence on site until such time that the applicant has made an application, including all necessary costs, for the introduction of all appropriate and related Traffic Regulation Orders to the City Council, as the Highway Authority, unless otherwise agreed. Furthermore no part of the building shall be occupied until the required works have been completed in accordance with details to be agreed by the Highway Authority.

Reason: in the interests of highway safety and in accordance with adopted Policy CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MOD EXPLOSIVES SAFEGUARDING

(28) No development shall be commenced until a report (to include detailed technical and structural drawings) has been submitted to and approved in writing by the Local Planning Authority providing verification that the development has been designed to withstand structural collapse or damage that could cause critical injury, in the event of an explosion within the statutory explosive safeguarding zone surrounding Plymouth Sound.

Prior to use of the development commencing, the applicant shall provide written confirmation verifying that the building has been designed and constructed to the

above criteria unless otherwise agreed previously in writing with the Local Planning Authority and the approved details shall thereafter be so retained and maintained unless the written consent of the Local Planning Authority is given to any variation.

The use of an experienced blast consultant is recommended.

Reason:

The site of the proposed development falls within the outer statutory explosive safeguarding zone surrounding Plymouth Sound. All buildings within this zone should be 'non-vulnerable' that is of robust construction and design, so that should an explosive incident occur, buildings nearby will not collapse or sustain damage that cause critical injury to the occupants. Further information is therefore required to demonstrate that the development is not a vulnerable structure in accordance with adopted Policy CS02 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - CODE OF CONSTRUCTION

(1) The management plan required in connection with the "Code of Practice During Construction" Condition should be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web-pages, and shall include sections on the following:

- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information.
- b. Construction traffic routes, timing of lorry movements, weight limitations on routes, initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, wheel wash facilities, access points, hours of deliveries, numbers and types of vehicles, and construction traffic parking.
- c. Hours of site operation, dust suppression measures, and noise limitation measures.
- d. Details of an area to be created within the site for the parking of contractor's equipment and materials.
- e. All sensitive properties surrounding the site boundary should be notified in writing of the nature and duration of works to be undertaken and the name and address of a responsible person, to whom an enquiry/complaint should be directed.

INFORMATIVE - SECTION 278 AGREEMENT REQUIRED

(2) No work within the public highway should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. The Applicant should contact Plymouth Transport and Highways for the necessary approval.

INFORMATIVE - SECTION 38 AGREEMENT REQUIRED.

(3) Any of the roadworks included in the Application for adoption as highways maintainable at public expense will require further approval of the highway engineering details prior to inclusion in an Agreement under Section 38 of the Highways Act 1980.

INFORMATIVE - APPROVAL REQUIRED FOR WORKS TO HMPE

(4) This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The Applicant should contact Plymouth Transport and Highways for the necessary approval. Precise details of all works within the public highway must be agreed with the Highway Authority and an appropriate Permit must be obtained before works commence.

INFORMATIVE - EXCLUSION FROM RESIDENT PARKING PERMIT SCHEME

(5) The applicant should be made aware of the fact the development will be excluded from obtaining permits and visitor tickets, including business tickets, for use within the resident parking scheme, as existing and as proposed.

INFORMATIVE - GREASE SEPARATION

(6) The applicant is recommended to consider the fitting of a grease separator within the kitchen of the ground floor commercial unit. Building Regulations doc. H states that drainage serving kitchens in commercial hot food premises should be fitted with a grease separator, complying with prEN1825-1:2004 and designed in accordance with prEN1825-2:2002 or other effective means of grease removal.

INFORMATIVE - FOOD HYGIENE AND SAFETY ADVICE

(7) The applicant is strongly recommended to contact the Food Safety and Standards Team, Public Protection Service, prior to finalising plans for and commencing work on the internal layout of the commercial unit to ensure that the layout, equipment and facilities meet with the requirements of health and safety, and food law.

The applicant is urged to visit the pages of the food safety and standards team on the following link for further information and to access a food premises registration form <http://www.plymouth.gov.uk/homepage/environmentandplanning/foodsafety.htm>

INFORMATIVE - NOISE INSULATION

(8) As noise insulation works can be costly after developments are completed, it is advised that in order to meet the above criteria a noise assessment is carried out to assess the additional level of insulation required to meet the required standard prior to development. This may reduce costs after the development has been completed.

INFORMATIVE - GREEN ROOF MANAGEMENT PLAN

(9) Taking into account the exposed waterfront location, the developer's attention is drawn to landscaping conditions 7 and 8 and is asked to give particular attention to ensure an adequate management regime is put in place for the ongoing maintenance and management of the proposed green roof.

INFORMATIVE - PAYMENT OF TRAFFIC ORDER COSTS

(10) The applicant shall be required to pay the costs associated with the preparation and advertisement of the Traffic Regulation Orders and then implement, as required, the amendments to the on-street car parking bays. The required sum shall not exceed £10,000.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: The impact of the development on the appearance and character of the Hoe Conservation Area and setting of listed buildings in the locality; Impact upon the amenities of neighbouring properties and uses; Impact on West Hoe Park; The adequacy of access and parking arrangements and the impact of the development on the highway network, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (1) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

PPG13 - Transport
PPG17 - Sport and Recreation
PPG24 - Planning and Noise
PPS3 - Housing
PPS9 - Biodiversity and geological conservation
PPS1 - Delivering Sustainable Development
PPS22 - Renewable Energy
PPS23 - Planning & Pollution Control
CS28 - Local Transport Consideration
CS32 - Designing out Crime
CS33 - Community Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS13 - Evening/Night-time Economy Uses
CS18 - Plymouth's Green Space
CS19 - Wildlife
CS20 - Resource Use
CS21 - Flood Risk
CS22 - Pollution
CS03 - Historic Environment
CS01 - Sustainable Linked Communities
CS02 - Design
CS15 - Housing Provision
CS30 - Sport, Recreation and Children's Play Facilities
PPS25 - Development and Flood Risk
SPD2 - Planning Obligations and Affordable Housing
SPD1 - Development Guidelines
SPD3 - Design Supplementary Planning Document
PPS5 - Planning for the Historic Environment
NPPF - Draft National Planning Policy Framework 2011

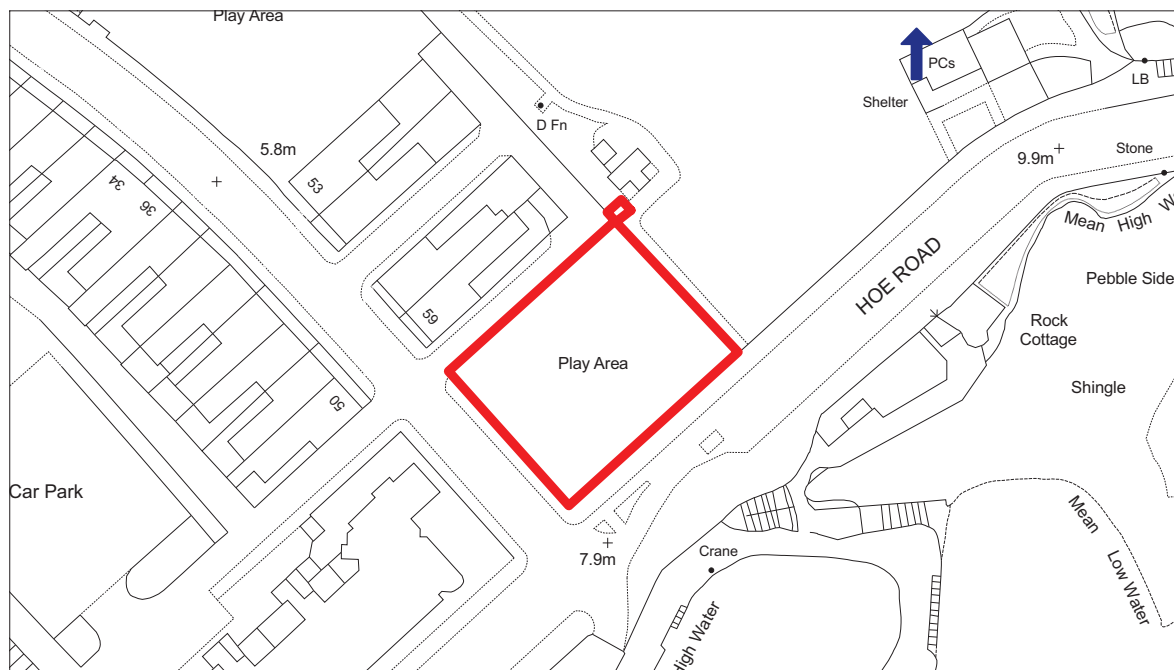
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PLANNING APPLICATION REPORT



ITEM: 02

Application Number:	11/01146/CAC
Applicant:	Pier St Limited
Description of Application:	Demolition of boundary wall and steps
Type of Application:	Conservation Area
Site Address:	FORMER TENNIS COURTS, HOE ROAD-PIER STREET PLYMOUTH
Ward:	St Peter & The Waterfront
Valid Date of Application:	08/07/2011
8/13 Week Date:	02/09/2011
Decision Category:	Member Referral
Case Officer :	Mark Evans
Recommendation:	Grant Conditionally
Click for Application Documents:	www.plymouth.gov.uk



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This application is referred to Planning Committee by Councillor Tuffin on the basis that there is an associated planning application which is considered to have close links with this Conservation Area Consent proposal and the planning application is considered to be dependent on the outcome of this application.

Site Description

The boundary walls abut Pier Street and an adjoining existing service road, and bound a site that occupies a prominent location on Hoe Road and abuts the south west corner of West Hoe Park. The site is bounded by Pier Street and Hoe Road at its south and south west edges and by a small access/service road on its northern edge on which there are a number of on-street car parking bays. The site is situated within the Hoe Conservation Area.

The steps to be removed provide a narrow stepped access onto West Hoe Park from the service lane. The adjacent West Hoe Park is a popular park for both locals and visitors for both its landscape qualities and the range of amusements it offers including a children's railway which bounds the site on its north eastern edge.

Proposal Description

Demolition of boundary wall and steps.

Relevant Planning History

11/01145/FUL – UNDECIDED

Consultation Responses

Highway Authority

No objections.

Representations

At the time of writing the Officer's report, 81 individual (non standard) letters of representation have been received. 132 letters have also been received of one "standard" format or another, containing identical points or duplicated letters. In addition to a single batch of 653 "standard" letters of objection which contain identical points and a petition of 6880 signatures. (Copies of all representations received are available for Member's inspection prior to Committee.)

Objections that relate largely to the proposed planning application for the redevelopment of the site have been summarised in the previous Officer's Report on planning application 11/01145/FUL. However, those that relate solely to this Conservation Area Consent application for the demolition of the wall and steps can be summarised as:

Wall and Steps -

- I. Objection to the removal of the wall and park steps which are part of the park and are not considered to be surplus to requirements, not owned by the developer and not in the site area edged red. Removing the steps to the park will take away the right of public access to the park from Pier Street. The replacement steps should be of a quality to match the cut and dressed stone of the existing.

Analysis

Prior to application submission, detailed pre-application discussions took place with officers.

The application should be assessed primarily against adopted Local Development Framework Core Strategy. This report therefore has due regard to the following policy: CS03 (Historic Environment) and Area Vision 4.

Consideration should also be given to the National Planning Policy Framework Consultation Draft (Revised August 2011), PPS5 – Planning for the Historic Environment and draft Hoe Area Action Plan.

The key issue in this case is:

- 1) The impact of the demolition of the boundary wall and steps on the appearance and character of the Hoe Conservation Area. (Policies CS01 and CS02 of the Adopted Core Strategy)

The impact of the demolition of the boundary wall and steps on the appearance and character of the Hoe Conservation Area. (Policies CS01 and CS02 of the Adopted Core Strategy)

The removal of the boundary wall and existing steps to the park off the Pier Street service lane in order to facilitate the redevelopment of the site is considered to safeguard the appearance, character and setting of the Hoe Conservation Area. The proposal will not have any significant adverse impact upon the setting of any listed building in the locality.

A condition is recommended to ensure that demolition does not take place before a contract for carrying out the works of redevelopment on the site has been made and submitted to and approved in writing by the Local Planning Authority, and planning permission has been granted for the redevelopment for which the contract provides.

A condition is recommended on the linked planning application to ensure that the new steps are constructed using high quality materials and that they are kept permanently open to the public.

On this basis, the application is considered to be acceptable and is fully supported by adopted Core Strategy Policy CS03 and Government guidance contained in PPS5.

Human Rights Act

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities & Diversities issues

On basis that the development of the application site will provide improved, wider steps with handrail within the external development footprint, designed to modern ambulant disabled standards, there is considered to be a positive impact from an accessibility perspective.

Conclusions

The removal of the boundary wall and existing steps to the park off the Pier Street service lane in order to facilitate the redevelopment of the site is considered to safeguard the appearance, character and setting of the Hoe Conservation Area. The proposal will not have any significant adverse impact upon the setting of any listed building in the locality.

The application is considered to be acceptable and is fully supported by adopted Core Strategy Policy CS03 and Government guidance contained in PPS5. Conditional approval is therefore recommended.

Recommendation

In respect of the application dated **08/07/2011** and the submitted drawings 10123.L09.05, it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 2 YEARS

(1) The works hereby permitted shall be begun before the expiration of two years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004, and due to concessions in Planning Obligation contributions/requirements under Plymouth's temporary Market Recovery measures.

NO DEMOLITION BEFORE CONTRACT

(2) Demolition shall not take place before a contract for carrying out the works of redevelopment on the site has been made and submitted to and approved in writing by the Local Planning Authority, and planning permission has been granted for the redevelopment for which the contract provides.

Reason:

In accordance with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and PPS5, to ensure that demolition does not take place far in advance of redevelopment leaving an unsightly gap which would harm the character and appearance of this Conservation Area.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: the effect on the Conservation Area the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed works are acceptable

and comply with (1) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS03 - Historic Environment

CS01 - Sustainable Linked Communities

PPS5 - Planning for the Historic Environment

NPPF - Draft National Planning Policy Framework 2011

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