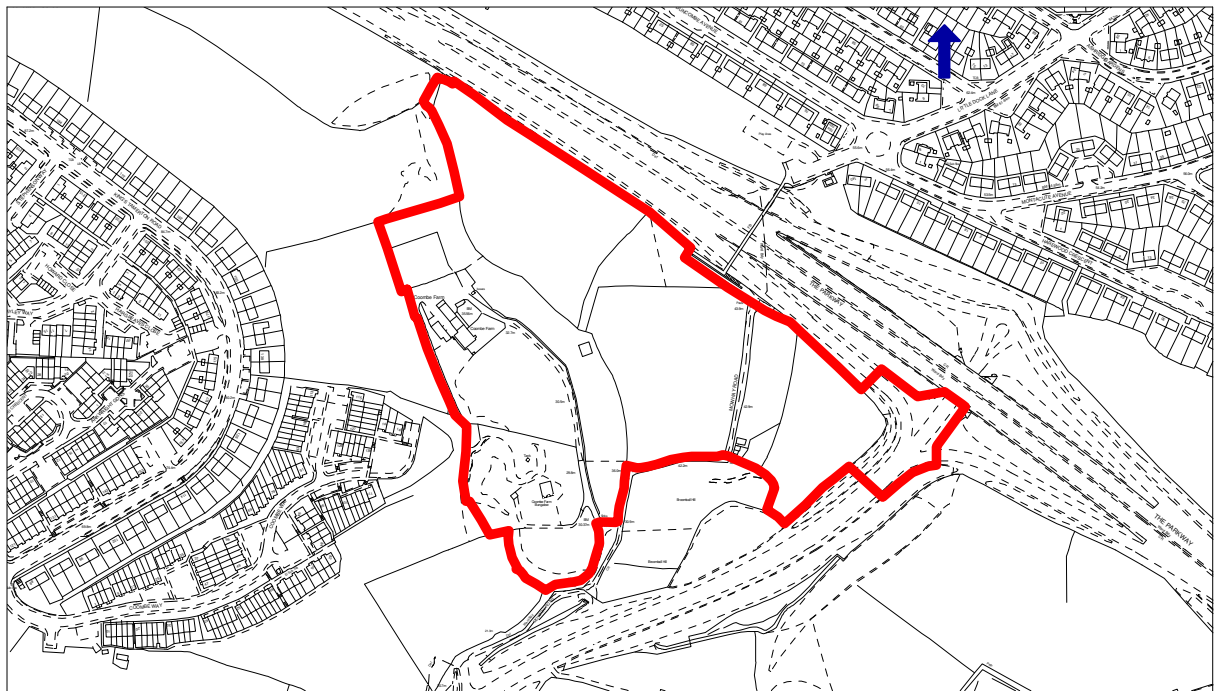


ITEM: 09

Application Number: 06/00018/OUT
Applicant: Chelverton Deeley Freed
Description of Application: Outline application to develop land for employment purposes, together with a bulky goods retail unit
Type of Application: Outline Application
Site Address: LAND AT JUNCTION OF ST BUDEAUX BYPASS AND THE PARKWAY ST BUDEAUX PLYMOUTH
Ward: St Budeaux
Valid Date of Application: 06/01/2006
8/13 Week Date: **07/04/2006**
Decision Category: Major
Case Officer : Robert McMillan
Recommendation: Not Determined (Refuse if the applicants had not appealed against non-determination)



OFFICERS REPORT

Site Description

The site is at the north end of the St Budeaux By-Pass by the junction with the A38(T) Parkway on the northwest side of the by-pass. The site has an area of 6.8ha. It is in an attractive wooded valley of a stream that flows down to Weston Mill with the land rising up to both sides of the by-pass and either side of the A38(T) to the north west. The site is roughly triangular in shape. The northeast boundary is the A38(T) and its slip road. The south east boundary comprises open land, the by-pass, Bromball Hill and Mowhay Road. The south west and west boundary is open and wooded land rising steeply up to the houses in Coombe Way and Kings Tamerton Road.

The site is open wooded land with a bungalow in the south west in the location of a former quarry and the empty and derelict Coombe Farm buildings in the northwest served by a long track. The levels vary rising up either side of the valley floor that runs through the site in a north west to south east direction. Mowhay Road runs alongside the site from its junction with the by-pass, then through the site to link with the footbridge link to Honicknowle over the A38(T). The main belt of trees follows the valley floor with a line of trees linking this area to the A38(T) to the west of the footbridge. There are belts to the west of Coombe Farm and three areas surrounding Coombe Farm Bungalow. In the eastern part there are trees either side of Mowhay Road and east of this a hedgerow. The remaining land north east of the main central belt are fields, formerly used for the keeping of horses.

The eastern edge of the site includes part of the by-pass and A38(T) slip roads to enable improvements to the highway.

Proposal Description

The proposals are to develop the site for employment units and a bulky goods retail warehouse as 'enabling development' to provide the enhanced value and income to develop the site. The application is in outline with all matters reserved apart from means of access.

The application is accompanied with an illustrative layout plan. This shows 25 employment units varying in size from 140 sq m to 1162 sq m giving a total of 9,534 sq m and a retail warehouse of 4648 sq m with a garden centre of 930 sq m. There would be a new roundabout junction east of the site south of the Parkway. This would also be a junction with the St Budeaux By-Pass, and the A38(T) west bound on and off slips roads. The layout is detailed and shows ample parking with 182 spaces for the employment units and 262 for the retail warehouse together with servicing arrangements. The existing footpath linking the footbridge over the Parkway to Mowhay Road would be diverted to the east.

Parts of the site are subject to steep slopes so there would be considerable ground works and changes in level to make the scheme practicable.

Background History

98/00943 – FULL – Erection of non-food retail warehouse and garden centre and industrial buildings and car parking – REFUSED by SOS.

89/03144 – OUTLINE – Erection of buildings for B1 uses –GRANTED – Not implemented.

80/02188 – FULL – Change of use of western part of the site from agriculture to riding stables – GRANTED.

Consultation Responses

Highways Agency

Holding direction for 6 months to refuse to allow them sufficient time to assess impact on the A38 trunk road and the proposed Weston Mill junction improvement.

The Countryside Agency

No formal comments

Environment Agency

Objects because:

1. a proper assessment of flood risk has not been undertaken as required by PPG25;
2. insufficient information has been submitted on existing watercourse and wetland habitats; and
3. the unnecessary culverting of a watercourse.

South West RDA

There is insufficient information to determine if the application will help deliver the Regional Economic Strategy. As such the application does not demonstrate that: it is sustainable, will complement other regeneration initiatives nearby it will have a positive impact on deprived wards close by and appropriate measures are introduced to reduce the need to travel by car. SWRDA could only support the application if the applicants submit additional evidence to deal with its concerns.

Natural England

No comments or objections.

Highway Authority

Insufficient traffic modelling work has been undertaken in order to determine what impact the additional traffic generated by the development and new proposed roundabout would have both on the existing local road and trunk network in terms of congestion and queuing. At present queuing takes place on the A38 eastbound off-slip and there are concerns that the development would add to this problem, increasing the potential for accidents to occur as traffic stacks back onto the main A38. This situation is also likely to occur on the westbound off-slip and on the A3064 (St Budeaux By-Pass) itself.

The sustainability of the site and accessibility to non-car modes of travel is considered to be very poor with no bus services directly serving the site and a potentially long journey on foot required to reach the nearest available stops. It is understood that the local bus operators has been consulted and they have confirmed that it would be commercially unviable to introduce a new or re-direct existing services along the A3064 to serve this site. The linkages to existing pedestrian and cycle networks are poor and the likely travel distances appear to be greater than those in PPG13 (Transport). As a result it is expected that the proposed development will inevitably lead to excessive car based travel and high parking demands due to the close proximity of the site to the A38 Trunk Road Network and poor accessibility to the site by non-car modes. For these reasons the Local Highway Authority advises refusal on grounds of insufficient modelling and increased danger and congestion on the trunk road and local road network; and the shortcomings of the site and proposal in relation to sustainable modes of travel.

South West Water

The previous drainage comments remain valid but does not formally object.

Environmental Services

The Environmental Statement (ES) does not address the land quality issues. There is probably a former landfill site on the land that might be contaminated. Further information is required in the ES to deal with this. If permission is granted conditions should be attached dealing with land contamination matters and any importation of soil and material.

The site is close to dwellings and a noise impact assessment should be undertaken to deal with likely uses and vehicular movements. Artificial lighting should not be intrusive. Construction shall accord with the Council's code of practice there should be adequate provision for storage and disposal of waste and recycling materials. The applicants should carry out a rodent survey to avoid pest nuisance.

TIE – Drainage

Standard drainage comments. Pay special attention to the sewers that cross the site and the requirement that the development is sited so as not to prejudice the operation of the sewer, its structure and maintenance or access to it.

Asset Management

It has considered the confidential financial appraisal and the case for the retail floorspace is justified in development finance terms.

Representations

8 local residents wrote making the following comments:

1. It should remain as one of the few remaining uncultivated and natural areas in Plymouth;
2. Harm to wildlife and their habitats;
3. Increase in traffic and added danger on the roads;

4. Increased traffic will add to danger on the western access to the A38(T) that is combined with the exit from the A38 to the St Budeaux junction;
5. Increased noise;
6. Increased pollution;
7. Not necessary as: other retail and business parks have empty units; there is the industrial estate nearby at Burrington Way; and there is suitable land at Tamar Way north of The Parkway;
8. It is a remnant of the old Trelawney estate and Weston Mill village;
9. It will cause chaos;
10. Reference to the nature conservation value of Ham Woods that is now a nature reserve on the other side of the valley;
11. Proposed layout is agreeable provided the landscaping is carried out and safeguarding conditions are attached to prevent noise and pollution;
12. Lack of clarity on the exact location of the site.

Analysis

Introduction

This is a difficult case given the planning history of the site and the policy background and the changing emphasis in the development plan. The main issues with this application relate to: pre-application discussions and consideration of the application against a changing policy framework; status of different parts of the development plan; strategic matters; employment policy; retail policy; transport, highways and accessibility; landscape and trees, nature conservation, flood risk and environmental health matters.

Background

The applicants first approached officers in December 2004 for development along the lines of this application and received a response that it could be acceptable in principle as it accorded with the 1996 adopted local plan policy AER 10.6 Officers always had reservations about the accessibility issues raised by the Inspector and Secretary of State when refusing permission for the retail and employment application in 2000 and landscape impacts.

Discussions and meetings took place in 2005 and the applicants agreed to submit an Environmental Statement to comply with the Environmental Impact Assessment (EIA) Regulations and to be consistent as one had been submitted with the previous application. At this stage the Local Development Framework Core Strategy (CS) was at the earlier 'Issues and Options' and 'Preferred Options' stages and the key 2006 Employment Land Review and Shopping Study evidence reports had not been prepared. Officers had to give advice in a rapidly changing policy situation.

The applicants were informed that the site would be considered as a Lyons Review relocation site and they would proceed at their own risk. They continued work on it and the Environmental Statement and made the application in January 2006.

During the consideration of the application progress was made on the CS achieving greater weight as a material consideration that will culminate in its

adoption in April 2007. This has an influence on officer advice. Objections were raised on several matters including transport, highways and accessibility, employment, retail and environmental reasons. The applicants sought to clarify and overcome these by holding further meetings. In October 2006 they stated they would submit further information to deal with concerns with the Environmental Statement raised by consultees. They submitted this in February 2007. As they did this under Regulation 19 of the EIA Regulations the City Council had to undertake a full reconsultation exercise. While this was underway the applicants lodged an appeal against non-determination. The application will now be determined by the Inspector. The purpose of this report is to find out what Members would have decided if they still had the power to determine the application.

Policy

The development plan comprises Regional Planning Guidance for the South West 2001 (RPG10), the Devon Structure Plan 2004 (DSP) the Plymouth Local Development Framework Core Strategy Development Plan Document 2007 (from 23 April 2007) (CS) and the adopted Local Plan First Alteration 1996 (FALP). The draft Regional Spatial Strategy is a material consideration and will replace RPG10 when it is adopted in 2008. The Proposals part of the First Deposit Version of the Local Plan is also material until replaced in stages by Action Area Plans and the Key Site Allocations Development Plan Document (DPD).

Status of different parts of the development plan

'The Planning System: General Principles' that accompanies PPS1: Delivering Sustainable Development emphasises Section 38 of the Planning and Compulsory Purchase Act 2004 (PACPA) that the statutory Development Plan will continue to be the starting point in determining planning applications unless material considerations indicate otherwise. When conflicts between policies arise, decisions should be taken in the light of all material considerations, including local priorities and needs, guided by relevant national policy.

The applicants have argued strongly that the application accords with the Act and Government advice as it is consistent with Proposal AER10.6 of the adopted local plan (FALP) and that objections raised by consultees and officers relating to employment policy, retail policy, transport, highway and accessibility matters, landscape and flood risk can all be overcome to achieve an acceptable development.

Officers from the outset have had reservations on accessibility grounds following the previous Secretary of State's decision and as time has moved on have attached more weight to the CS which will be the latest part of the Development Plan on 23 April 2007 and other more recent parts of the Development Plan comprising RPG10 and the DSP. Section 38 (5) of the PACPA states that where a policy contained in a development plan conflicts with another policy in the development plan the conflict must be resolved in favour of the last document to be adopted, approved or published.

Strategic policy

RPG 10 identifies Plymouth as one of the region's 11 Principal Urban Areas (PUAs) and the strategic policies seek to tackle the long term and deep seated economic and social problems in this western sub region (SS 1). Most of the development should take place in the PUAs (SS 2). SS 3 focuses new employment development in a number of cities and towns including Plymouth. Policy SS17 promotes employment investment and economic regeneration and diversification within Plymouth through the development of brownfield land. The RSS starts in policy SD1 by emphasising a development strategy that stabilises and reduces the ecological footprint by developing a low carbon and resource using economy, reducing the need to travel especially by car by effective planning of development improving public transport and requiring a shift to more sustainable means of travel. Policy SD2 focuses on climate change by reducing greenhouse gas emissions avoiding development in flood risk areas and reducing the effects of flooding. Policy SD3 seeks to ensure that development respects the landscape and the impact of the economy, transport and development is reduced. SD4 aims to create sustainable communities by realising economic prosperity and reducing disparity encouraging business activity and linking homes, jobs and services so that places have the potential to become more self contained and reducing the need to travel. Development Policy A states that the primary focus for development will be at 'Strategically Significant Cities and Towns' (SSTCs) including Plymouth which offer the greatest opportunity for employment and accessibility by non car modes. Policies SR32-34 deal with Plymouth where measures will be taken to transform and revitalise the city for significant growth in economic activity and homes by providing a range of employment opportunities.

The Structure Plan starts by ensuring that sustainable development is achieved by conserving resources, protecting environmental assets, meeting community needs and developing a sustainable and accessible transport system (ST1). Policy ST3 seeks to maintain and enhance the self sufficiency of communities by providing a balance of housing and employment and local services to maximise accessibility. ST5 follows RPG10 by directing strategic development to the PUAs and developing and diversifying the economy by offering a range of employment sites, enhancing Plymouth's commercial role and regional services function.

These aims are carried forward and developed locally in strategic objectives SO1-3 of the CS to continue Plymouth's urban renaissance to establish a city of international quality, to increase the population to over 300,000, by providing quality employment provision and supporting regeneration and diversification. The benefits will spread to the citizens by developing sustainable linked communities ensuring that development takes place where it can promote the effective and sustainable use of resources and fully accessible neighbourhoods well served by public transport, walking and cycling infrastructure.

Set against such an extensive policy framework the principle of the employment part of this application theoretically accords with the objectives of

achieving economic sustainability. The site although centrally located with good accessibility by the car has difficulties as it is somewhat isolated by the area's topography from nearby communities with poor accessibility for walking, cycling and public transport and situated by a junction on the strategic highway network that has capacity problems at peak times. The accessibility problem was a major reason why permission for retail and employment uses was refused by the Secretary of State in 2000. Since then the policy framework on this issue has developed further as outlined above and has become more strict.

Employment policy

The applicants argue that the application should be permitted because it will provide 9,534 sq m of employment site together with the necessary enabling retail development in accordance with part of the development plan - FALP Proposal 10.6. Also it accords with the emerging RSS and Regional Economic Strategy in providing a comparatively small amount of employment land in the western part of the city where there is a shortage of potential employment sites that will benefit disadvantaged areas.

The FALP is part of the development plan and so an important document in considering this application. But it was drawn up at a time when the city was facing a difficult economic situation with significant redundancies, including those in the Dockyard. The city was then dependent on new employment land that was in short supply leading to a requirement of 90ha until 2001. DSP Policy ST7 states that 160 ha of employment land is required for the PUA from 2001 to 2016 including the extensive areas at Langage and Sherford. RSS policy SR35 gives an allocation for the wider Travel To Work Area of 150 ha from 2006 to 2026 stating that it will focus on the intensification of the City's urban area through reuse of brownfield land complemented by the strategic urban extension at Sherford.

RPG10 Policy EC 3 aims to provide a range of employment sites at sustainable locations well integrated with the existing settlement pattern and being likely to provide a realistic choice of access including being well served by public transport. DSP Policy ST20 states that local plans should reassess all existing and allocated employment sites in terms of needs and to maximise residential and mixed use development in sustainable locations. Policy ST21 states that economic and social regeneration priority should be given to the deprived parts of the PUAs.

The City Council carried out employment land reviews in 2004 and 2006 looking at this issue in detail. The Employment Land Review 2006 (ELR) looked at the key sectors and employment areas to match forecast employment growth to land requirements and concluded that 40ha is required from 2006 to 2016 with a further 22 ha until 2021. This is stated in policy CS04 that specifies that sites should be well located to public transport infrastructure and the key locations are the City Centre and Waterfront and Northern Corridor at the Derriford area. Paragraphs 6.16-6.17 state that 5.7 ha are required along the A38 corridor and another 14.67 ha by 2021. This corridor includes several areas comprising Ernesettle, the application site,

Honicknowle, Marsh Mills and Newnham. Paragraph 6.21 states that sites will be allocated at the best locations that meet demand by a thorough review of existing permissions and allocations through the Action Area Plans and Key Site Allocations DPD.

The Inspector's report of the examination of the Core Strategy found that it met the conformity test by conforming with the draft RSS and being consistent with the DSP. It concluded that the evidence base is up to date and formidable and supersedes the information supplied for the RSS but the ELR will be the first stage in assessing the suitability of sites that will be fully reviewed in subsequent DPDs.

The site's allocation in the 1996 adopted local plan is an important consideration in planning law and practice that cannot be ignored. But the equally important material considerations of the changes to the planning policy framework and disadvantages of the site in terms of poor accessibility for more sustainable modes of travel mean that the matter must be thoroughly examined through the DPD process and the local planning authority (LPA) do not have to 'slavishly adhere' to the 1996 local plan.

Retail policy

The applicants state that they need to provide an element of non-food retail to provide a higher land value and return to enable the lower value employment development to occur. Initially they considered two types: a DIY store and builders' yard/garden centre; and a bulky good store, both with an area of 4,648 sq m. Subsequently, following receipt of the Council's retail consultants report on their retail assessment they agreed to restricting the use to the DIY format. Consequently the analysis below concentrates on a DIY store. Paragraph 3.4 of PPS6: Planning for Town Centres states that applicants should demonstrate:

1. The need for development;
2. It is of an appropriate scale;
3. The sequential test has been applied;
4. There are no unacceptable impacts on existing centres; and
5. The location is accessible.

The LPA's consultants had concerns about the extent of the applicants' primary catchment area (PCA) and sought further explanation that was not provided. The applicants state there is a qualitative need as there is a shortage of DIY and bulky goods retail warehouses in the western part of the city which this proposal would seek to redress. In terms of quantitative need the LPA's consultants conclude that there is potentially a quantitative need for the DIY element. But this should not be given significant weight with other DIY stores a short drive away. On the sequential test they are not aware of any other preferable sites other than the vacant site at Marsh Mills. They agree with the applicants that the DIY store would not have a significantly adverse impact on any centres as it is likely to be felt on other similar out of centre stores.

They do not consider the accessibility test that was so important at the 2000 appeal. Officers consider that the site has and, notwithstanding the applicants' proposed improvements, will continue to have poor accessibility for people walking and cycling to it and using public transport.

RPG10 Policy EC 6 seeks to locate new retail development in the centres of PUAs and ensuring that the vitality and viability of existing centres is protected and enhanced. DSP Policy SH1 applies the sequential test for new retail location. Two of the criteria aim to promote accessibility by sustainable travel means and reduce reliance on the car. This is repeated in SH3 on retail warehousing. RSS Policy TC1 aims to protect the vitality and viability of town and city centres and that they are not harmed by inappropriate development elsewhere. FALP Policy ASR1 seeks to ensure that new development maintains the existing hierarchy of shopping centres. Policy ASR 14 deals with retail warehouses and has 4 criteria. It should not harm existing centres. If located at an out of centre site it should be for DIY or bulky goods. It complies with the third point as Proposal 10.6 allows for higher value uses, including retail, on this allocated site to enable the employment development to happen. It does not comply with the fourth point as it is not accessible by a choice of means of transport and would cause undue congestion or highway safety problems.

The most recent development plan policy on 23 April 2007 will be CS08. This sets out seven considerations for new retail development.

1. Supports the delivery of the spatial planning vision and strategy as set out in this Core Strategy.

Paragraph 7.14 states that where there is a need for out of centre development it will be directed to existing retail destinations ensuring that unsustainable piecemeal development does not occur. This proposal will not comply with the spatial strategy for retail development as it would be an isolated site with poor accessibility for more sustainable travel modes.

2. In relation to development in or on the edge of district or local centres, or at out-of-centre locations, meets a proven need.

For the DIY store there is limited quantitative and minimal qualitative need.

3. Is appropriate in scale and function to its location.

Not applicable.

4. Is fully integrated with the existing shopping area, except in the case of new centres where these are proposed.

Not applicable

5. Complies with the sequential approach to site selection, which prioritises development in existing centres, then edge-of-centre sites, and only then out-of-centre sites which are accessible by a choice of means of transport.

There are no sequentially preferable sites for the DIY store but this site is not accessible by a choice of means of transport.

6. Will not have an unacceptable adverse impact, including cumulative impact, on the vitality and viability of the City Centre and surrounding district and local centres.

The DIY store will not have an adverse impact on the shopping centres.

7. Helps maintain and develop the range of shops to meet the needs of the local community within the centre.

Not applicable.

In summary this is an unusual case as the rationale for limited retail floorspace dates back to the 1996 local plan as enabling development to ensure that the employment units would be built to comply with proposal 10.6. The Secretary of State's decision in 2000 found that the site had poor accessibility for more sustainable travel modes. Since then other parts of the development plan including RPG10 and the DSP have been adopted and the CS is about to be adopted. All of these stress that employment and retail development must be accessible by sustainable travel modes. As this site does not it would not comply with policies SH1 and CS08.

Transport: Traffic generation and impact

The transport policies of RPG10 aim to reduce the need to travel and locating major development on sites where there is a good choice of travel by sustainable transport (TRAN 1). TRAN 2 aims to maintain the strategic transport system. TRAN 3 encourages more sustainable travel choices. TRAN 5 deals with demand management that ensures appropriate maximum parking standards are applied. TRAN 10 gives priority to walking cycling and public transport so that bus networks provide access to all major employment and retail sites.

RSS policy TR1 Gives prioritisation to public transport provision and seeks better integration of development proposals and public transport provision. TR4 aims to ensure that the trunk road network maintains its strategic function to maintain its safe and efficient operation and to avoid congestion.

DSP Policies TR1 and TR2 support a sustainable travel strategy and the coordination of land use and travel planning. TR3 and TR4 deal with travel management and parking to discourage car based travel and encourages more sustainable modes and the use of travel plans. Policies TR5, TR7 and TR9 repeat the transport hierarchy of walking, cycling and public transport stating that new development is well related to pedestrian and cycle routes. Major new development should be located where it can maximise accessibility to public transport. TR10 aims to maintain and enhance the strategic road

network so that new development does not adversely affect the network in terms of traffic and road safety.

CS policy CS28 aims to promote a high quality transport system by ensuring new commercial development should be provided at locations well served by a variety of travel modes including public transport, promoting walking and cycling, applying the Council's parking standards.

FALP policy ATR4 states that the needs of cyclists and pedestrians shall be adequately catered for in the design of new roads and junctions. Policy ATR5 seeks to prevent development that exceeds the network's capacity, conflicts with the free flow of traffic or creates problems of highway safety. Policy ATR8 states that development where the public travel to should be within 400m of a regular and frequent public transport service.

The A38 Weston Mill junction with St Budeaux Bypass (A3064) experiences congestion in the peak hours especially in the morning on the eastbound off-slip road. The main proposed access arrangement is to create a new roundabout to the east of the site. Transport officers state that this could well lead to queuing on the westbound off-slip road and on the approaches to the roundabout especially from the south in the afternoon peak. Also traffic could approach it from the north at excessive speeds that could increase the risk of accidents. Transport officers and the Highways Agency are concerned that inadequate traffic modelling work has been done to assess fully the impacts of the development and highway alterations on the existing network and trunk road. The evidence submitted by the applicants does not establish that satisfactory highway conditions will prevail.

The Highway Authority and the Highways Agency are concerned that the new proposed junction arrangement will lead to increased congestion on the St Budeaux By-Pass and additional queuing traffic on the A38 east and westbound off-slips (the eastbound off-slip already suffers from queuing traffic in the am peak hour). This is likely to lead to increased potential for accidents as fast moving traffic comes up to the back of vehicles stationary vehicles. As such the application conflicts with DSP policy TR10 RSS policy TR4 and ATR5.

Sustainability

As stated in sections above this is a critical issue with this application dating back to the SoS's 2000 decision where he concluded that : "Of even greater concern to the Secretary of State is the site's failure to provide high accessibility for customers and employees by means other than the private car." The 50 mph speed limit on the St Budeaux By-pass does not make it conducive to cycling while the only ready means of access for pedestrians is for residents in Honicknowle via the footbridge over the A38.

With public transport there are no existing bus services on the St Budeaux By-pass. The nearest bus stops are to the north involving a walk of 850m well over the sustainable maximum in RPG10 of 400m. The transport assessment confirms that the local bus operators do not intend providing a service along

the By-pass. The applicants would introduce a two hour minibus service during the morning and evening peaks at a 20 minute frequency linking the adjoining residential areas to the site. This would run for 5 years. Once it stopped the users would have to travel by other means including the car.

The applicants have also proposed a combined footway and cycleway alongside the A38 running westwards to link with the bus stops by the St Budeaux junction. This would not be an attractive route next to a busy road and the walking distance is again well over the maximum distance of 400m at 760m, but closer to 1km from the centre of the site.

The applicants submitted further information on accessibility matters but these do not address the shortcomings of the site in terms of sustainability and the limited opportunities for the more sustainable means of travel contrary to policies TRAN 1, TRAN 3 and TRAN 10 , DSP policies TR1-3, TR6 and TR9, CO28, ATR8 and RSS policy TR1.

Landscape and trees

The applicants landscape consultants worked with officers to determine the approach to landscape design and the degree of detail required with the application and ES. The existing landscape is semi-natural dominated by belts of mature trees and hedgerows. When the site was allocated for employment development in 1996 the LPA then envisaged that there would be a change to the landscape.

The Arboricultural Overview shows clearly that there would be a dramatic loss of trees and hedges in the higher categories 1 and 2. There is also potential for further loss affected by changes in levels and the landform including those at Broomball Hill subject to a tree preservation order.

The applicants have sought to mitigate these loss by substantial new tree planting particularly along the north eastern boundary with the A38. They provide plans showing that proposed area of some retained trees and new planting would be similar to the existing treed area of about 2.32ha. The landscape report concludes that the proposals will result in high levels of adverse visual impact altering the character of the landscape from one dominated by (natural) landscape to one in which buildings are seen in a landscape setting. The landscape officer stated that the landscape recommendations are largely sound. But, even if there were not other objections to this application, they do not come close to providing reasonable mitigation for such major loss of trees and change in landform. A further problem with the design is that the applicants have not worked their proposals into the character of the landscape, topography and treed areas but have sought to impose a new built landform that removes so many mature trees and features that would harm the landscape quality and visual amenity to an unacceptable degree. Consequently the proposal conflicts with policies EN1, SD3, CO6, CS18, AEV4, AEV8, AEV31 and AEV38.

Nature conservation

The Regulation 19 response from the applicants states that the environmental impacts have been fully explored through technical appendices 1 and 1A regarding the loss of trees: this is not correct. Although they have looked at the trees as individual species they have not looked at the ecological function of the trees as a corridor, bat roost or foraging area. It has been identified, in technical appendix 2 'Ecological Assessment', that bats may use the hedgerow and woodland edge for foraging and there are a number of trees with high bat roost potential and many trees with moderate potential. The significance of the impact of removing these features requires clarification.

The impact should be assessed using results from emergence surveys that should be conducted during the summer months; Coombe Farm should also be included in these surveys. Without looking at the ecological function of the trees/hedgerows there is no evidence that the mitigation they have proposed will protect existing biodiversity. Bat roosts are protected under the Wildlife and Countryside Act and their habitats should be protected as detailed in PPS9: Biodiversity and Geological Conservation.

The loss of significant hedgerows and protected trees has not been mitigated to an adequate level. The proposed landscaping will result in the short term in a loss of tree cover and in the long term almost the same level of cover. This is not acceptable as the mitigation does not equal the existing situation and it will take approximately 20 years to reach a similar level of cover. The inadequate proposed biodiversity enhancements are considered to be inadequate.

Policy CS19 dictates that development should seek to achieve a net gain in biodiversity by designing in wildlife and ensuring any unavoidable impacts are appropriately mitigated for. This development does not have the evidence base to understand the existing nature conservation features of the site, it is not possible therefore to ensure that appropriate mitigation or enhancement has been provided.

As detailed above, a full assessment of the impacts from the development has not been conducted. Further survey work is required and mitigation measures may need to be produced dependant on the outcomes of the surveys.

Although it is accepted that some loss of green space and trees/hedgerows will result due to the allocation of the site for development, a more sensitive layout would be expected. The current application has not fully taken account of protected species or the principles advocated in PPS 9. It is also contrary to policy CS19.

Flood risk

The Environment Agency (EA) have raised objections on drainage and flood risk and ecological reasons. Part of the site is in Flood Zone 3 which is the high risk zone. It is likely that the main flood risk relates to potential increase in surface water run off.

There is uncertainty concerning existence of the open water feature shown on the Ordnance Survey map is still present. If it is present any culverting would be resisted by the EA and further ecological work would be required. The applicants state it is not. Officers will check this before the meeting.

There is insufficient information to determine if there is enough space for an effective Sustainable Urban Drainage System (SUDS). They conclude that there is insufficient information to enable the EA to make an informed comment on the environmental impacts of the development.

Environmental health matters

The site was either used for landfill or former landfill material has been deposited on site. The ES does not adequately deal with this matter. Further information should have been provided. A noise survey should have been undertaken to determine the level of background noise. The applicants were informed of this in March 2006 but did not carry out the necessary additional work. These matters could be covered by condition but should be dealt with at the application stage as part of the EIA process.

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

None has been proposed

Conclusions

This has been a difficult case owing to the changing emphasis of different parts of the development plan particularly as the Core Strategy (CS) has progressed during the consideration of the application. The allocation for employment use in the 1996 adopted local plan is an important fact. If the Inspector were to allow the appeal there would be benefits with the provision of employment units and jobs in the western part of the city together with a DIY outlet. The Secretary of State's decision in 2000 and more recent parts of the development plan at regional, county and city level also have great weight. The main drawbacks with this application are the poor sustainability of its location with limited accessibility for pedestrians and cyclists and public transport passengers as no bus service runs along St Budeaux By-pass. The CS establishes that there is now a reduced demand for employment land within the city and that all permitted and allocated sites will be reviewed as part of the ongoing LDF process through relevant DPDs. The proposed tree and hedge loss and changes to the landform would harm the landscape. The ES does not provide sufficient information to assess fully the impacts on protected species and nature conservation interests, flood risk and surface water drainage, ground contamination and noise. These disadvantages

outweigh the benefits of the scheme and the appeal should be resisted for the suggested reasons for refusal if the LPA had retained its power to determine the application.

Recommendation

In respect of the application dated 06-Jan-2006 and the submitted drawings, **Site location plan,, 0285-P01B, 0285-P02A, 0285-X01, Environment Statement, Futher information added to the Environmental Statement under Article 19 of the Regulations and letters from the applicant's agents dated 31 May 2006, 6 October 2006 and 28 February 2007.,** it is recommended to: **Not Determined (Refuse if the applicants had not appealed against non-determination)**

Reasons for Refusal

UNACCEPTABLE TRAFFIC IMPACT

(1) Insufficient traffic modelling has been undertaken in order to determine what impact the increased level of traffic generated by the development would have both on the Local and Trunk Road Networks. The Highway Authority is concerned that the new proposed junction arrangement will lead to increased congestion on the A3064 (St Budeaux By-pass) and additional queuing on the A38 East and Westbound off-slips (the Eastbound off-slip already suffers from queuing traffic in the am peak hour). This is likely to lead to increased potential for accidents to occur as fast moving traffic comes up to the back of stationary vehicles. It is the view of the Highway Authority that the proposed development is likely to give rise to issues of highway safety and capacity which is contrary to policies TR1 and TR10 of the Devon Structure Plan 2004, ATR 5 of the adopted City of Plymouth Local Plan First Alteration 1996 and TR4 of the Draft Regional Spatial Strategy for the South West 2006 – 2026, 2006.

INADEQUATE ACCESSIBILITY FOR MORE SUSTAINABLE TRAVEL MODES

(2) It is the view of the Highway Authority (and supported by the Highways Agency) that the various measures put forward by the applicant do not address the short-comings of the site in terms of sustainability and the limited opportunities that exist regarding the use of alternative modes of transport when making journeys to and from the site (walking, cycling, public transport etc). Due to the close proximity of the site to the Trunk Road Network, the private car is likely to be the only realistic option in terms of mode choice for staff/customers travelling to and from the development. The proposed development is therefore considered to be contrary to Policies TRAN 1, TRAN 3 and TRAN 10 of the Regional Planning Guidance for the South West (RPG 10) 2001, TR1 – TR3, TR6 and TR9 of the Devon Structure Plan 2004, CO28 of the Adopted Plymouth Local Development Framework Core Strategy Development Plan Document 2004, ATR8 of the adopted City of Plymouth Local Plan First Alteration and TR1 of the Draft Regional Spatial Strategy for the South West 2006 – 2026, 2006 and Planning Policy Guidance Note 13 (Transport).

INADEQUATE ACCESSIBILITY FOR MORE SUSTAINABLE TRAVEL MODES AND NEED TO REVIEW SUITABILITY OF SITE FOR MIXED EMPLOYMENT AND RETAIL USE

(3)The site is allocated in part of the development plan in the Adopted City of Plymouth Local Plan First Alteration 1996 as an employment site at a time when there was a shortage of employment sites in the city. Other more recent parts of the development plans stress the need for employment and retail sites to be sited at sustainable locations that have adequate and realistic accessibility for the more sustainable modes of travel of walking, cycling and public transport. The up to date adopted Core Strategy is based on a sound evidence base demonstrating a lower requirement for employment land to be allocated at the most appropriate locations to meet demand. All the permissions and allocations will be reviewed through the Action Area Plans and Sustainable Neighbourhood (Key Site Allocations) Development Plan Document. Until this site is thoroughly reviewed in this process its inadequate accessibility for the more sustainable travel modes is contrary to policies EC3 of Regional Planning Guidance for the South West (RPG 10) 2001, ST20, SH1 and SH3 of the Devon Structure Plan 2004, CS04 and CS08 of the Adopted Plymouth Local Development Framework Core Strategy Development Plan Document 2004 and ASR14.4 of the Adopted City of Plymouth Local Plan First Alteration 1996

LOSS OF TREES AND HEDGES AND HARM TO LANDSCAPE

(4)Notwithstanding the fact that the site is allocated for employment development in part of the development plan the proposals would involve the substantial loss of mature trees and hedges and changes to the landform that would harm the landscape quality and visual amenity to an unacceptable degree. As such it is contrary to policies EN1 of the Regional Planning Guidance for the South West (RPG 10) 2001, CO6 of the Devon Structure Plan 2004, CS18 of the Adopted Plymouth Local Development Framework Core Strategy Development Plan Document 2004 and AEV4, AEV8, AEV31 and AEV38 of the Adopted City of Plymouth Local Plan First Alteration 1996.

INSUFFICIENT INFORMATION AND HARM TO NATURE CONSERVATION

(5)Insufficient information has been submitted with the application and Environmental Statement on protected species, unavoidable impacts on nature conservation interests are not adequately mitigated and there is inadequate biodiversity gain. Consequently the application and Environmental Statement in its current form is contrary to policies CO10 of the Devon Structure Plan 2004 and CS19 of the Adopted Plymouth Local Development Framework Core Strategy Development Plan Document 2004.

INSUFFICIENT INFORMATION TO ASSESS FULLY IMPACTS ON FLOOD RISK AND DRAINAGE, GROUND CONTAMINATION AND NOISE

(6)Insufficient information has been submitted with the application and Environmental Statement to assess fully the impacts of flood risk and surface water drainage, ground contamination, and noise impacts on the site and surroundings to ensure that flood risk and drainage, ground contamination and noise problems will not occur. In the absence of this information the application is contrary to policies RE 1 and RE 2 of the Regional Planning

Guidance for the South West (RPG 10) 2001, CO13 and CO16 of the Devon Structure Plan 2004 and CS21 and CS22 of the Adopted Plymouth Local Development Framework Core Strategy Development Plan Document 2004

Relevant Local Plan Policies

The following policies from the Devon Structure Plan (2001 to 2016) 2004, the adopted City of Plymouth Local Plan First Alteration 1996, the City of Plymouth Local Plan (1995-2011) First Deposit 2001, Plymouth Local Development Framework and Regional Spatial Strategy (the status of these documents is set out within the City of Plymouth Local Development Scheme 2006), and relevant Planning Guidance Notes, Statements and Government Circulars were taken into account determining this application:

AER10 - New Employment Sites
AER18 - Env. Standards for Employment Development
AEV10 - Wildlife Movement
AEV31 - Townscape
AEV32 - Communication corridors
AEV33 - Pedestrian Circulation
AEV38 - Landscaping and Enhancement Schemes
AEV39 - Enhancement of Main Access Corridors
AEV4 - Loss of Existing hedgerows, trees or wood
AEV45 - Access for Disabled Persons
AEV47 - Safe and Secure Environments
AEV49 - Pollution
AEV5 - Implementation of community woodland sch
AEV50 - Contaminated Land
AEV51 - Energy and Recycling
AEV7 - Preservation of SLINCs
AEV8 - Nature Conservation Features
AIR1 - Decisions on Planning Applications
AIR2 - Provision for infrastructure and amenity
ASR1 - Hierarchy of Shopping Centres
ASR14 - Retail Warehouses - Dev. Criteria
ASR25 - Equal Access for People with Disabilities
ATR10 - Bretonside Bus Station
ATR4 - Cyclists and Pedestrians
ATR5 - The Road Network
PPG13 - Transport
PPG9 - Nature Conservation
PPS1 - Delivering Sustainable Development
PPS6 - Planning for Town Centres
PPS23 - Planning & Pollution Control
CS32 - Designing out Crime
CS33 - Community Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS22 - Pollution
CS08 - Retail Development Considerations
CS09 - Marsh Mills Retail Parks

CS18 - Plymouth's Green Space
CS19 - Wildlife
CS20 - Resource Use
CS21 - Flood Risk
CS01 - Sustainable Linked Communities
CS02 - Design
CS04 - Future Employment Provision
PPS25 - Development and Flood Risk