

ITEM: 10

Application Number: 07/00179/FUL

Applicant: Rok Development

Description of Application: Redevelopment of site by erection of industrial unit (Use Classes B1/B8) and a non-food bulky goods retail unit with associated access and car parking areas

Type of Application: Full Application

Site Address: UNIT J 91 ST MODWEN ROAD MARSH MILLS PLYMOUTH

Ward: Moor View

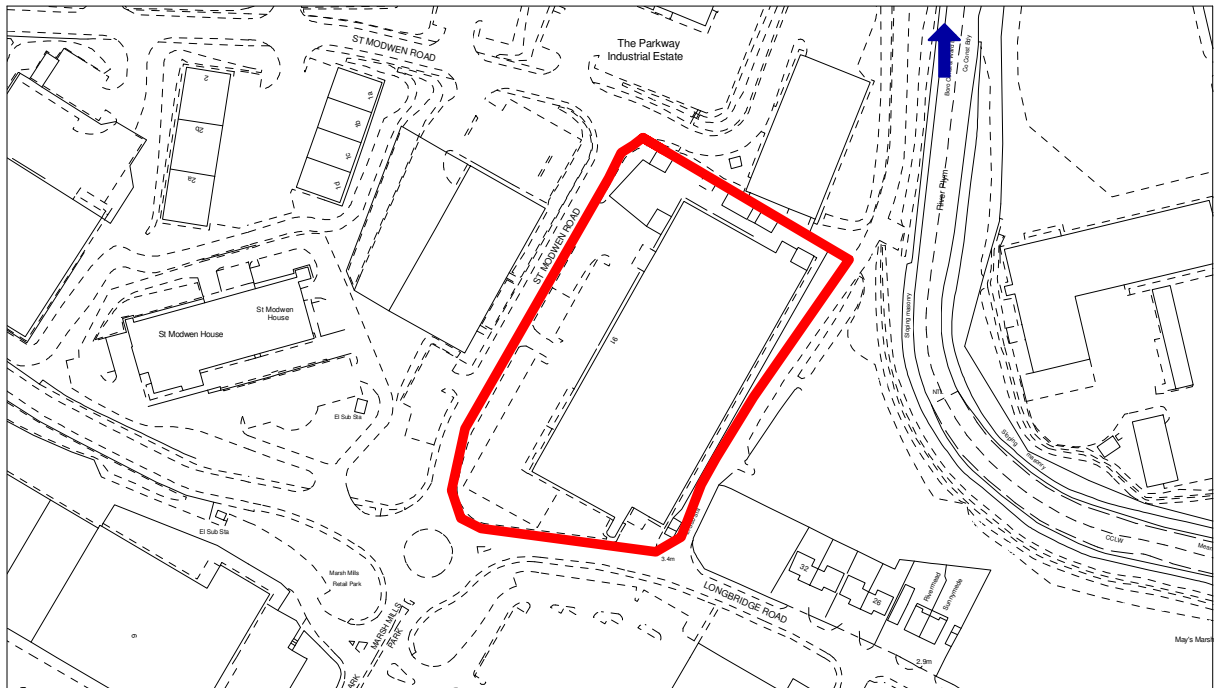
Valid Date of Application: 06/02/2007

8/13 Week Date: 08/05/2007

Decision Category: Major

Case Officer : Robert McMillan

Recommendation: Minded to Grant Conditionally subject to S106 Agreement, (provided no objections raised by the Environment Agency), minded to refuse if objections raised by the Environment Agency – delegated authority to officers to act accordingly upon receipt of Environment Agency observations.



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OFFICERS REPORT

Site Description

The site is in the Parkway Industrial Estate, close to Marsh Mills Retail Park by the roundabout entrance to the retail park on the north side of Longbridge Road at its junction with St Modwyn Road. The site has an area of 1.12 hectares and a frontages with St Modwyn Road of 150 metres and Longbridge Road of 70 metres. Marsh Mills Retail Park lies to the south, with employment units to the west and north and open land to the east beyond which is a row of 6 houses. The River Plym also lies to the east of the site and has been “canalised” in the interests of flood prevention.

The site comprises a large industrial building mainly in brown metal cladding with offices at the southern part in brick cream rendered panels and glazing. The parking area is on the western part. The site is reasonably landscaped with trees on the southern, western and eastern verges that is a feature of The Parkway Industrial Estate.

Proposal Description

The proposal is to demolish the existing building and to redevelop the site with two buildings: the southern one would be a retail warehouse of 2,350 sq m and the northern one would be a warehouse or B1 light industrial unit of 2,226 sq m. Each would have a vehicular access off St Modwyn Road with a large area of parking for the retail unit fronting Longbridge Road and a smaller one for the other unit at the northern end facing St Modwyn Road. A pedestrian access would be provided from Longbridge Road linking with a new pedestrian crossing and another crossing would be sited further west along Longbridge Road. The buildings would be of a traditional warehouse design 9 metres high finished in metal cladding, brickwork and some glazing under a profiled metal roof.

The landscaping scheme retains many trees including the Scots Pine at the front and Birch, Sycamores and Horse Chestnut around the edge of the site. New trees would be planted together with a Devon Hedgebank along the southern and western boundaries.

Relevant Planning History

06/00951 - Redevelopment of site by erection of industrial unit (Use Classes B1/B8) and a non-food bulky goods retail unit with associated access and car parking areas – WITHDRAWN.

04/00268 – OUT- Outline application for 4,183 sq m of non-food retail space parking and servicing – WITHDRAWN.

01/00281 – FULL - Change of use, conversion and partial demolition of premises to form 7 units for use within Classes B1/B2/ and B8 with ancillary trade sales – GRANTED – not implemented.

85/03473 – FULL - Formation of access way and re-alignment of highway together with raising floor level of block J2 warehouse – GRANTED.

83/02504 – FULL – Erection of a factory – GRANTED.

80/03848 – FULL – Erection of industrial/warehouse units and parking etc – GRANTED.

79/03216/OUT – Construction of roads and sewers – GRANTED.

Consultation Responses

Highways Agency

Directs refusal as is awaiting further information from the applicant to enable the Highways Agency to assess the impact on the safety and free flow of traffic on the A38. It requires more information in relation to the Road Safety Audit, pedestrian facilities and travel plan. It concludes that it hopes it can remove its holding direction when it receives the additional information.

Highway Authority

No objection subject to conditions and a section 106 contribution. There will be a slight decrease in traffic flows in the morning rush hour compared with the current employment use and a slight increase in the evening peak. There will be a 7 – 9% increase in the Saturday afternoon peak but this does not coincide with the general highway traffic peak. The parking is adequate and complies with standards. The layout and points of access are acceptable. The cycle parking should be secure and covered and provided for staff and customers and preferably separated between the two uses. Staff lockers should be provided. The proposed two pedestrian crossings on Longbridge Road will improve links to Marsh Mills Retail Park. The site is served by regular bus services and there are bus stops nearby. There should be a contribution for bus boarders.

Environment Agency

No comments received

South West Water

No objection provided that surface water is not connected to the public drainage system. If soakaways are to be used satisfactory percolation tests are required.

Environmental Services

No objections subject to controlling conditions concerning hours of operation and deliveries, noise from plant and machinery, lighting and code of practice.

Representations

The local planning authority (LPA) received seven letters of representation, six of which are the same, raising the following points:

1. Object to retail use;
2. Increase in traffic;
3. Inadequate parking leading to an Increase in on street parking;
4. If granted the following matters must be covered by condition:
 1. hours of opening to be controlled;
 2. no noise nuisance from machinery and vent extractors;
 3. no harm from odours;
 4. delivery hours should be restrained;
 5. control over possible overnight lorry parking;
 6. control over lighting;
 7. if the conditions are inadequate will complain to the Council or Ombudsman.

Analysis

The main issues with this application are: the principle of permitting the substitution of some of the employment floorspace for retail use at this location; highway and transport matters; flood risk; design, appearance and landscaping and residential amenity.

Background

A similar application was made in 2006 but withdrawn in order for the applicant to overcome some concerns primarily relating to highways and transport issues.

The update on the Core Strategy is that the independent Inspector appointed by the Secretary of State examined the 'Soundness' of the Submitted Core Strategy in January and February. The Inspector reported back to the Council on 3 April 2007 stating that the Core Strategy was sound with agreed changes. The Core Strategy objectives and policies quoted in this report relate to the latest version referred to as 'Appendix 1' on the Council's web site that will now go to Full Council on 23 April for formal Adoption.

Principle of mixed use development

The northern building proposed for B1 or B8, employment or warehouse use, will continue the lawful use of the site in accordance with Core Strategy (CS) policy CS04, Devon Structure Plan (DSP) policy ST16 and Adopted Local Plan First Alteration (FALP) policy AER1.

The use of the southern building for non-food retail purposes is more controversial and must be assessed against policies CS5, AER2, ST20 and draft Regional Spatial Strategy (RSS) policy E4.

FALP policy AER2 adopted a strict approach and sought generally to retain employment sites for such uses. It will shortly be superseded by the more recent flexible policies that have responded to the changing economic circumstances and reduced demands for employment land in aggregate. The employment chapter of the Core Strategy recognises that less employment land is needed to meet the growth in jobs that can be broken down into key sectors and areas. For the Plymouth Principle Urban Area 40 hectares are

required between 2006-16 with a further 22 ha up to 2021. The key locations are the City Centre and Waterfront and Northern Corridor.

In policy CS05 a change of use will be permitted if there are clear environmental regeneration and sustainable community benefits. There are 5 criteria that should be considered if a change of use is to be permitted. The premises have been empty for 7 years during which they have been actively marketed. This points to the view that the current premises are not viable for the commercial market. It appears that it could be used for two of the key sectors of advanced engineering or creative industries but these types of employment have shown no active interest to date. Criteria 3 and 4 relating to tourism and marine employment do not apply. Finally the neighbourhood has a good range of employment opportunities at The Parkway Industrial estate and Marsh Mills and Coypool retail parks. DSP policy ST20 and RSS policy E4 adopt a less strict approach for redevelopment of employment sites for mixed use schemes.

Initially the applicant was negotiating with the Council to use the employment building as document and archive store for the Plymouth History Centre but the Museum Service have made alternative arrangements. But a modern building would be more suited to current industrial and warehouse requirements. A mixed use redevelopment would put this brownfield site to a beneficial use and provide a number of jobs. A named occupier for the employment unit is preferable as if it remains empty for any length of time there could be pressure for a change of use to another non-food retail use. But as this is speculation the proposals would accord in general with employment policies CS05, ST20 and E4.

PPS6: Planning for Town Centres sets out in paragraph 3.4 five tests for applicants to meet with retail proposals. These are: need both quantitative and qualitative, scale, sequential test, impact on existing centres and accessibility. This approach is applied locally in policy CS08 of the Core Strategy. The applicant submitted a retail assessment that deals with these matters which are assessed below.

Need for the development

Quantitative need: The quantitative need case for the development is correctly based on the 2006 retail study for the city, which identifies quantitative need. By relating comparative goods expenditure to floorspace requirements the Plymouth Shopping Study estimates floorspace requirements for 2011 of 22,631 sq m – 36,775 sq m. This proposal for 1,858 sq m would be 5.1% - 8.2% of the aggregate allowing for 91.8% - 94.9% to be taken up elsewhere in the city.

Qualitative need:

The applicants retail assessment bases the qualitative need on the assumption that development, demonstrate qualitative need by addressing the shortcomings of the retail park in line with policy CS09. CS09 is not a basis for qualitative need, it is a policy which seek to directs development and which also seeks to ensure improvements to the Marsh Mills area. As such qualitative need has not been demonstrated in this application. However PPS6 is clear that it is

quantitative need which carries the greatest weight in demonstrating need, since this has been done, need has been demonstrated.

Scale

The floorspace of the Marsh Mills Retail Park is about 15,846 sq m. The proposed retail floorspace is 1858 sq m. This is an increase of 11.7% which is consistent with the site and its context with the adjoining Retail Park and of an appropriate scale.

Sequential approach

PPS6 and policy CS08 directs retail development to existing centres, then edge of centre and only then out of centre locations. Marsh Mills Retail Park is an anomaly because despite the amount of retail floorspace and variety of goods sold it is classified as an out of centre location and is not a district centre. This location while being on the edge of this retail park is still an out of centre location. There are some irregularities with the sequential search, this is due to the search being based on an area which is formed around a single storey development requirement. PPS6 states that:

'In applying the sequential approach, and considering alternative sites, developers and operators should be able to demonstrate that in seeking to find a site in or on the edge of existing centres they have been flexible about their proposed business model in terms of the following planning considerations: the scale of their development; the format of their development; car parking provision; and the scope for disaggregation.'

In relation to this application two issues arise, first the end user is not confirmed, therefore operational requirement should be more flexible and secondly the assessment acknowledges that a possible occupier is installing a mezzanine floor in their existing store, clearly demonstrating that such retailers can operate from multi level stores. But even if a two storey development model was adopted it is considered that none of the sites explored in the retail assessment would be capable of taking this development and this site meets the sequential test.

Impacts

The impacts arising from this development are not substantive enough to cause any unduly negative impact on either the city centre or the surrounding district or local centres.

Accessibility

The site is on an industrial estate adjoining a retail park with adequate facilities for pedestrians and cyclists. It is served a regular bus service with a 15 minute frequency. Two pedestrian crossings will be provided to improve linkages to the retail park. The site has adequate accessibility for the more sustainable means of travel.

Points 2, 3, 5, and 6 of Policy CS08 largely reiterate national guidance, which have been dealt with above. The proposal supports the spatial strategy as it is redevelopment of a brownfield site and policy CS09 recognises that the retail

parks in the Marsh Mills area have a role and function in the city's retail hierarchy. In relation to point 4 the application does not relate to an existing centre, however in relation to the retail park it does sit reasonably well with the existing retail park and the proposed pedestrian crossings will improve linkages. Point 7 on meeting the needs of the local community is not strictly relevant to this application. The proposal complies with policy CS08.

The improvements outlined in the application comprising improved pedestrian facilities, bus boarders and landscaping help deliver the improvements outlined in policy CO9 specifically regarding landscaping, access and egress, accessibility by pedestrians including visitors to the existing retail park, cyclists and bus users. The proposal complies with this policy.

Transport

The proposal will not give rise to an increase in traffic generation that would increase the risk of danger or cause congestion on the road network compared with the existing lawful use of the site. Indeed there will be a slight decrease in the morning rush hour. There will be a greater increase on Saturday afternoons but this at a time when the roads are less busy and there is more capacity. There are adequate accesses and the parking complies with standards. There will be satisfactory facilities to encourage travel by the more sustainable means other than the car. The pedestrian crossings will benefit people walking and linkages to the adjoining retail park. Provision will be secured for cyclists with secure storage and changing facilities for staff. The site is served by frequent bus services and two bus boarders would be provided. The applicant agrees to using a staff travel plan (STP) to encourage the use of travel other than single occupancy car trips and has provided a framework for the STP that will have to be provided to comply with the relevant condition if permission is granted.

The Highways Agency (HA) appears to be satisfied with the principle of the development and highways and transport arrangements. But it has raised a holding objection as it still requires clarification on detailed points relating to the Road Safety Audit, pedestrian facilities and the travel plan. The applicant's consultants are working on this with the HA and officers will update members at the meeting. If the HA lifts its objection the proposals would comply with policy CS28 and DSP policies TR1-7 and TR9-10.

Flood risk

This is the most controversial aspect. Members are aware of the flooding problems in the Plym valley and the precautionary approach adopted by the Environment Agency, City Council and Inspectorate. The applicant has not updated the flood risk assessment (FRA) from the previous submission prepared in March 2006. Neither does it or the applicant's letter of support refer to the new government advice in PPS25: Development and Flood Risk that supersedes PPG 25.

The applicant believes that the proposals and mitigation measures will protect the site from tidal flooding. The applicants believe it is unreasonable to carry out further modelling work on fluvial flooding but are prepared to make a

contribution for a wider modelling study. When the Environment Agency (EA) commented on the withdrawn scheme in July 2006 it stated that the FRA should consider the impact of fluvial flooding and consider the risk of combined tidal/fluvial events. As this had not been done it objected to that application. At the time of writing this report officers had not received the EA's advice but were aware that the applicant and its agents were in communication with the EA to try to overcome any objections the EA could raise. This could include incorporating FRAs done for other applications nearby that included more up to date information on fluvial flooding and the combined effects with the tidal flooding.

This issue now has greater weight because if the EA object to an application and the City Council wish to grant planning permission the application would have to be referred to the Secretary of State to decide whether or not to call in the application. The southern part of the site falls within category 3 high probability of flooding where the flood risk sequential test needs to be applied directing development to lower risk zones 1 and 2. If this cannot be achieved the Exception Test is applied. To pass the test with this case it must:

1. Provide wider sustainability benefits to the community that outweigh the flood risk;
2. Be on previously developed land; and
3. The FRA must show that the development will be safe without increasing the risk of flooding elsewhere and where possible reduce flood risk overall.

Officers conclude that the sustainability benefits to the community are limited; it meets the second test and the third test depends upon the EA's advice.

The advice from the EA is crucial and without it officers can not state whether or not the development complies with PPS25 and policies CS21, DSP policy CO13 and RSS policy F1. Officers will update Members at the meeting on any written comments received from the EA.

Design and landscaping

The design is for buildings of standard appearance on retail parks and industrial estates that serve their function and the northern building would be improved if the expanse of cladding was relieved with another material such as a brick or rendered ground floor. The applicant has retained as many of the mature trees as possible and will provide new trees and a Devon hedgebank around the western and southern boundaries. The design and appearance will be acceptable in its context to comply with policies CO2, CS18 and CS34

Residential amenity

Residents are concerned about the principle of residential use and increase in traffic but the above reasoning demonstrates that these are acceptable. They are experiencing problems with the Princess Yachts site at Coypool on compliance with conditions. They wish to be assured that enforceable conditions are attached relating to hours of opening and deliveries, noise odours lighting and overnight parking. The Head of Environmental Regulation

Service has raised similar points and if permission is granted such conditions would be attached to comply with policies CS22 and CS34.

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 applicant has provided a draft unilateral undertaking offering a contribution of £2,000 towards the cost of making a model on tidal and fluvial flooding for the local area. Officers have sought an additional contribution of £8,500 towards bus boarders. The administration fee is £1,050.

Conclusions

The application would put a site that has been vacant for a long time into a beneficial use that complies with national and development plan policies in relation to employment and retail uses. The design, appearance and landscaping are acceptable and conditions would ensure that residential amenity would not be harmed. The transport and highway effects should be satisfactory subject to the applicant agreeing points of detail that are still outstanding with the Highways Agency. The recommendation is worded positively but the crucial issue relates to flood risk so the advice from the Environment Agency is critical to the final determination.

Recommendation

In respect of the application dated **06/02/2007** and the submitted drawings, **11030392/GA-02A, 621/105, 621/104C, D112683/002, 621/101P, D112683/001/C, 621/106, 621/102E, 621/103/E, 621/204D, 621/002E, 621/001F, 621/203G, letter of support of 2 February 2007, design and access statement, retail assessment, transport assessment, supplementary transport assessment, travel plan framework, flood risk assessment, safety audit and tree report** , it is recommended to: **Minded to Grant Conditionally subject to S106 Agreement, (provided no objections raised by the Environment Agency), minded to refuse if objections raised by the Environment Agency – delegated authority to officers to act accordingly upon receipt of Environment Agency observations.**

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:

AER1 - Existing Employment Areas/Premises
AER2 - Change of Uses of Ex.Employment Areas
AEV31 - Townscape
AEV38 - Landscaping and Enhancement Schemes
AEV4 - Loss of Existing hedgerows,trees or wood
AEV45 - Access for Disabled Persons
AEV49 - Pollution
AEV50 - Contaminated Land
AIR2 - Provision for infrastructure and amenity
ASR14 - Retail Warehouses - Dev.Criteria
ATR5 - The Road Network
ATR8 - Proximity of Development to Public Transport
PPG13 - Transport
TR2 - Co-ordinating Land Use/Travel Planning
TR3 - Managing Travel Demand
TR4 - Parking Strategy,Standards and Proposals
TR5 - Hierachy of Modes
TR7 - Walking and Cycling
TR9 - Public Transport
PPS1 - Delivering Sustainable Development
PPS6 - Planning for Town Centres
ST20 - Re-assessment & Safeguarding Employment Land
TR7 - Walking and Cycling
CS02 - Design
CS28 - Local Transport Consideration
CS33 - Commuinty Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS22 - Pollution
CS08 - Retail Development Considerations
CS09 - Marsh Mills Retail Parks
CS18 - Plymouth's Green Space
CS20 - Resource Use
CS21 - Flood Risk
CS22 - Pollution
CS05 - Development of Existing Sites
CS04 - Future Employment Provision
CS32 - Designing Out Crime