

**ITEM: 05**

**Application Number:** 09/01867/FUL

**Applicant:** Sutton Harbour Property & Regeneration Ltd

**Description of Application:** Change of use of ground floor from shops (A1 use) to shops (A1 use) and/or Financial and Professional Services (A2 use) and/or Restaurant/Café (A3 use) and/or Drinking Establishment (A4 use) and first and second floors to 6 residential apartments (C3 use) together with new ground floor windows and doors, new rooflights and associated works

**Type of Application:** Full Application

**Site Address:** 82 to 84 VAUXHALL STREET PLYMOUTH

**Ward:** St Peter & The Waterfront

**Valid Date of Application:** 18/12/2009

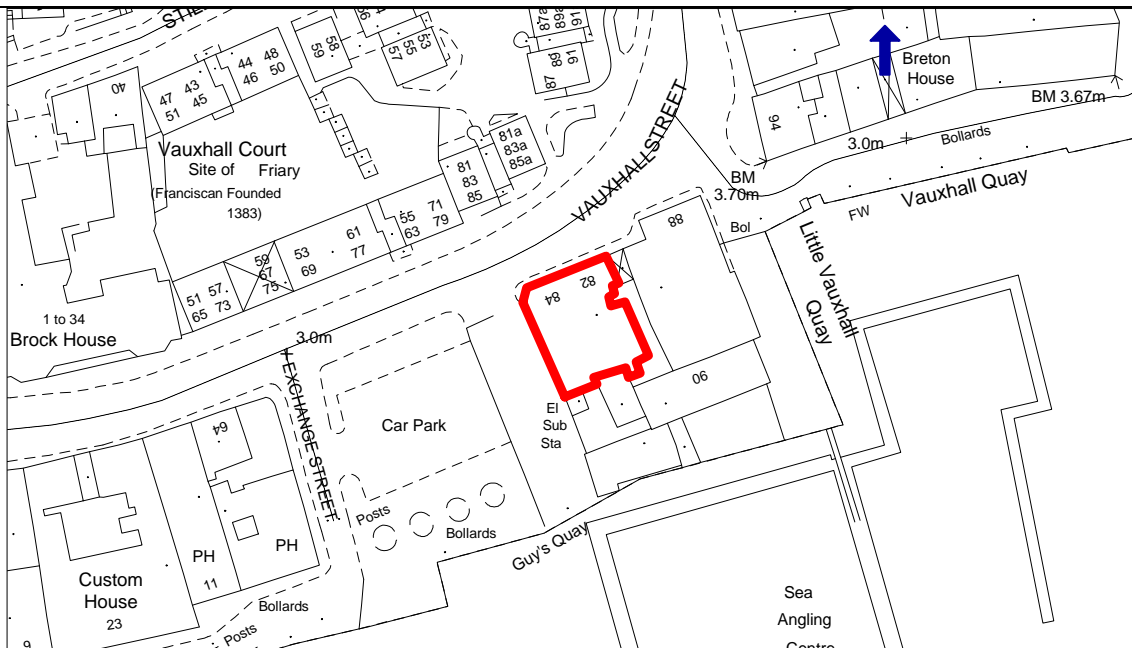
**8/13 Week Date:** **19/03/2010**

**Decision Category:** Major Application

**Case Officer :** Mark Evans

**Recommendation:** Grant conditionally subject to the satisfactory completion of the S106 Obligation. Delegated authority to refuse the application should the S106 Obligation not be signed by the 4<sup>th</sup> May 2010.

**Click for Application Documents:** [www.plymouth.gov.uk](http://www.plymouth.gov.uk)



## **OFFICERS REPORT**

### **Site Description**

Jamaica House comprises two pairs of limestone rubble warehouses set within the Barbican Conservation Area. The three storey building mid 19<sup>th</sup> Century building is listed grade II.

The building has been vacant since 2006 and has been identified as a "Building at Risk" on the Plymouth Buildings at Risk Register (Grade 4 – Vulnerable).

The building has been altered internally and externally to varying degrees but retains its key historic fabric and integrity being largely constructed from rubble limestone with brick quoins around the windows and doors and a pitched (hipped) slate roof.

Until 2006, the premises were used on the ground floor and in part on the first floor for a retail use, but appeared vacant on the remainder of the first floor and the second floor.

### **Proposal Description**

Conversion of ground floor of building to shops, and/or Financial and Professional Services and/or Restaurant/Café and/or Drinking Establishments and 6 residential apartments incorporating associated internal and external refurbishment works and replacement of ground floor windows and doors, together with construction of new rooflights.

### **Relevant Planning History**

09/01868/LBC - Conversion of building to shops, and/or Financial and Professional Services and/or Restaurant/Café and/or Drinking Establishments and 6 residential apartments incorporating associated internal and external refurbishment works and replacement of ground floor windows and doors, together with construction of new rooflights - APPROVED

02/00285/FUL – Alterations and extensions to roof, installation of roof lights, alterations to first and second floors to form 3 flats and 3 maisonettes and provision of entrance to flats and refuse store on ground – APPROVED.

02/00286/LBC – Alterations and extensions to roof, installation of roof lights, alterations to first and second floors to form 3 flats and 3 maisonettes and provision of entrance to flats and refuse store on ground – APPROVED.

93/00657 - Continue Use of first floor as a cafe and part sale of antiques and second floor as offices, studios and caretakers flat (FULL) GRANTED.

98/00637 - Continue Use of first floor as a cafe and part sale of antiques and second floor as offices, studios and caretakers flat (RENEWAL) GRANTED.

99/01037 - Alterations to form Pub with ancillary accommodation (FULL) REFUSED.

99/01038 - Alterations to form Pub with ancillary accommodation (FULL) REFUSED.

99/01039 - Alterations to form Pub with ancillary accommodation (LBC) REFUSED.

### **Consultation Responses**

Environment Agency  
No objections.

Highway Authority  
No objections subject to conditions.

#### **Public Protection Service**

At the time of writing the officer's report, the Council's Public Protection Service raises objections to the proposed residential use within the development primarily on the basis that the property is located within an area where there is noise from various sources: busy main road, car park, queuing patrons and the smoking area to the adjoining nightclub, and taxis, busy human thoroughfare, and several night clubs within the area that provide music entertainment until late. These sources have had a negative impact on existing residents in the use and enjoyment of their properties. Due to the intrusion of noise activities, the area has been designated a Cumulative Impact Area in an attempt to reasonably control any further impact that business activities will have on local residents.

Further acoustic survey testing has therefore been requested. The results of this survey and the comments of Public Protection will be reported as an addendum to this report.

Public Protection also objects on the basis that a preliminary risk assessment of potential ground contamination at the site (Phase I Desk Study) has not been submitted with the application.

### **Representations**

Four letters of objection have been received. Objections can be summarised as:

1. The proposed residential uses are not compatible with the existing well established use of the adjoining nightclub (Licensed until 4am with occasional 6am licences) which has its main entrance and outdoor smoking area/courtyard immediately abutting the walls of the application site building. This area can hold up to 70 people and is also the area in which the nightclub's bins and recycling area (breaking glass) are kept and also the area through which all deliveries to the club occur, including barrels and kegs which are rolled along the stone floor. It is also noted that there are alarms on all the fire exit doors in the courtyard which go off intermittently at any given time. It is

- considered that the proposed bedroom windows which front onto this noisy area would, even if triple glazed, experience noise and smoke nuisance.
2. To open an additional bar next to the existing nightclub would exacerbate potential problems with attendant anti-social behaviour and noise levels, and increased taxi noise outside the existing and proposed residential flats to the detriment of their residential amenity. This would also impact on businesses during the day and night particularly from customers talking and laughing outside. Patrons to the adjoining nightclub often queue on the street immediately in front of the application site. Loud music emanating from the proposed commercial uses will also result in noise disturbance during the day and night for local residents and businesses. Broken glass in the area is considered to be an on-going problem which is likely to get worse if this application is approved.
  3. Concern is expressed that the current nightclub operator/owner has worked hard to manage the impact of noise and smell pollution and the impact of taxi use at the club to the satisfaction of existing local residents, concern is expressed that this would not only worsen with the proposed additional bar use but there is no guarantee that any future tenant would have the respect to deal with this in the same way.
  4. The noise from the existing "Vue 2" Disco is also reported to often "bleed" through to this courtyard which is next to the proposed flats, and triple glazing is not considered to be sufficient to mitigate against this. It is further suggested that filling in the windows completely would achieve better sound reduction.
  5. The proposed car parking and loading / unloading arrangements will present considerable problems to the existing adjoining business which has 8 adjoining car park spaces accessed via this area which is considered very narrow and has limited turning opportunities on site.
  6. The proposed external bin storage area would further reduce the width of the four car parking spaces and may result in only 3 useable car parking spaces on site. Assurance is sought that all 8 car parking spaces used by the adjoining business will be maintained throughout the re-development period and that these will not be used by residents or customers of the retail units.
  7. Query whether a bedroom with no opening windows is a proper healthy environment for life in the future?
  8. Due to the close proximity of the building to two nightclubs and a pub, the long established uses of all these properties could be put at risk in the long term if the proposed residential use is permitted as any noise complaints from future residents of the development may have an adverse impact on licence renewals of the adjoining public houses and club premises.
  9. Concern that the noise survey conducted in the winter is not representative of the busier summer months when both clubs are considered to be busier.
  10. It is noted that Jamaica House appears within the boundaries of the cumulative impact policy for the Barbican area therefore change to use A4 is queried.

## **Analysis**

This proposal has been submitted under the Plymouth Market Recovery Action Plan initiative launched by the Planning Service on 22<sup>nd</sup> October 2008. The Plymouth Market Recovery Action Plan is an officer-level approach to negotiating community benefits on validly made planning applications submitted between 14<sup>th</sup> October 2008 – 31<sup>st</sup> December 2009 on selected sites to help stimulate the local economy in 2009, 2010 and 2011. The Plymouth Market Recovery Action Plan will work within the existing planning policy framework established by the Local Development Framework Core Strategy adopted in April 2007 and all subsequent Area Action Plans.

The aims of the initiative are:

1. To maintain optimism and momentum about the exciting regeneration and investment opportunities which exist in Plymouth.
2. To focus on delivery of key projects that can be completed in 2009, 2010 and 2011.
3. To maintain quality in developments but be realistic in assessing what can be delivered in the short term.
4. To explore creatively the use of public assets and joint venture models to build momentum so that Plymouth is well placed when the market does recover.
5. To work with partners (CDC, RDA, HCA) to promote Plymouth.

The Market Recovery Action Plan does NOT:

1. Propose a change in Local Development Framework policy.
2. Justify poorer quality design.
3. Apply to strategic sites crucial for Plymouth's growth agenda.
4. Apply to previously negotiated planning applications.
5. Alter the Planning Committee's statutory role in determining each application on its merits.

Following a "call for sites" this site is one of 16 sites that were submitted by the deadline of 22<sup>nd</sup> December 2009 and which have been accepted for consideration under the initiative.

Plymouth must respond to the current market difficulties in a proactive and positive way because of the sheer enormity of the city's growth agenda. Whilst trying to balance long term objectives with short term market responses officers have sought to take a considered view of the risks in a manner that protects member discretions and the primacy of the Planning Committee's duty to consider each application on its merits. In this case the proposal meets the requirements of the initiative and is therefore presented to Planning Committee for consideration on that basis.

The key issues are:

1. The impact of existing, established commercial uses on the proposed residential apartments;
2. The impact of the proposed commercial uses on residential amenity of existing and proposed residential units and on adjoining business premises;
3. The impact of the development on the appearance, character and setting of the Listed Building;
4. The impact of the development on the Barbican Conservation Area;
5. The impact of the development upon the highway network.

Policies CS01, CS02, CS03, CS13, CS15, CS21, CS22, CS28, CS32, CS33, CS34 and Area Vision 5 of the adopted Core Strategy together with the objectives of the Sutton Harbour Area Action Plan, Draft Development Guidelines Supplementary Planning Document (SPD1), adopted Planning Obligations and Affordable Housing Supplementary Planning Document (SPD2), adopted Design Supplementary Planning Document (SPD3) and Government advice contained within PPS1, PPS3, PPG13, PPG15, PPS23, PPG 24 and PPS25 are all of relevance in the determination of this application.

The impact of existing, established commercial uses on the proposed residential apartments and the impact of the proposed commercial uses on residential amenity of existing and proposed residential units and on adjoining business premises:

A material planning consideration is the fact that planning consent was granted in 2002 for three residential units in the building with active commercial uses on the ground floor. Although this permission was not implemented and has now expired, it is considered that there has not been a material change in planning policy since this decision and therefore significant weight should be given to this “in principle support” decision. It is however noted that since this decision the number of A4 uses (drinking establishments) in the Barbican area has increased.

The proposed development for a mixed use residential development is fully supported by Core Strategy Area Vision 5 which outlines the Council’s vision “to consolidate and develop the Sutton Harbour area as an attractive and sustainable mixed-use city quarter creating a unique, high quality environment that will attract investment and new residents”.

The adopted Sutton Harbour Area Action Plan advises that the Council’s approach for the Barbican, consistent with the Core Strategy, is to see it conserved and enhanced as a predominantly residential area, while safeguarding and improving its role as a hub for cultural, leisure and tourism related uses and protecting and strengthening its local centres at Southside Street, Notte Street and Quay Road.

Policy CS13 encourages evening/night time economy uses that contribute to the vitality of the waterfront areas and that support the creation of a safe,

balanced and socially inclusive evening/night time economy provided the cumulative impact of any proposed large scale use and existing uses does not exacerbate any existing unacceptable problems of disorder and nuisance arising from them, that new uses support the creation of a balanced provision of evening / night time uses and the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.

In line with Government guidance set out within PPS23 and Core Strategy Policies CS13, CS22 and CS34, the key issue is therefore to ensure that a safe, healthy and unpolluted environment is able to be enjoyed by occupiers of the proposed residential units as well as existing residential units, free from unacceptable levels of noise or smell pollution that may be created by the existing commercial premises or those proposed under this application.

In accordance with policy CS13, it is important that the cumulative impact of any proposed commercial use and existing uses does not exacerbate any existing unacceptable problems of disorder and nuisance arising from them, and that the new use supports the creation of a balanced provision of evening / night time uses. Due to previously identified problems of anti-social behaviour and noise as a result of the number of A4 uses (drinking establishments) that exist in close proximity in the area, the Public Protection Service has advised that the area has been designated a "Cumulative Impact Area" in an attempt to reasonably control any further impact that business activities will have on local residents.

As a result of concerns expressed regarding the cumulative impact of a new A4 (drinking establishment) use in the premises, the applicant has agreed to delete this proposed use from the planning application. The proposed ground floor uses will therefore comprise A1 (retail) or A3 (restaurant/café) uses. The impact of such proposed use is considered have an acceptable impact on neighbouring uses in terms of noise, traffic and disturbance, and is therefore supported by policy CS13.

The Council's Public Protection Service has, at the time of writing the officer's report, raised objections to the proposed residential use within the development, primarily on the basis that the property is located within an area where there is noise from various sources: busy main road, car park, queuing patrons and the smoking area to the adjoining nightclub, and taxis, busy human thoroughfare, and several night clubs within the area that provide music entertainment until late. It is noted that in the past, these sources have had a negative impact on existing residents in the use and enjoyment of their properties. No objection is raised to the proposed ground floor commercial uses.

The letters of objection from the owners and operators of the immediately adjoining nightclubs ("Annabel's Nightclub" and "Vue 2") further acknowledges the issue regarding the proposed residential use, and whilst it is noted that considerable ongoing efforts are being made by the current operator of Annabel's Nightclub to mitigate any adverse noise and smell pollution from

the site, strong concerns are raised by the operator/owner of this and the adjoining nightclub that any proposal for residential uses in such close proximity to the nightclub's main entrance, outdoor smoking area and main area of patron queuing will only exacerbate the situation. Concern is also expressed that this would also worsen with the proposed additional bar uses on the ground floor of the building.

The current acoustic survey information submitted by the applicant to support the application to date, has not satisfied the Council's Public Protection Service that future residential uses within the building will not experience unacceptable noise and smell pollution from the adjoining commercial premises. In order to enable an adequate assessment to be made, the applicant has therefore been requested to undertake additional acoustic survey work to demonstrate that the future occupiers will not be adversely affected by noise from the nearby pubs/clubs.

Taking into account the previous grant of planning consent on this site, it is considered that mitigation measures required to ensure that a reasonable standard of residential environment is achieved can be conditioned and accordingly the development will not conflict with policies CS22 and CS34. The results of this additional acoustic survey together with the updated response of the Public Protection Service and recommended level of mitigation measures to be imposed as planning conditions will be reported as an addendum.

#### The impact of the development on the Listed Building and Barbican Conservation Area.

The proposed internal and external alterations are considered to preserve and enhance the appearance, character and setting of the Listed Building and that of the Barbican Conservation Area. As such the works are considered to accord with Policies CS01, CS02, CS03, CS34 and Area Vision 5 of the adopted Core Strategy, the objectives of the Sutton Harbour Area Action Plan, adopted Design Supplementary Planning Document (2009) and Government advice contained within PPG15.

With regards the proposed replacement of the ground floor doors and windows. Whilst the existing windows are considered to be of poor quality, the use of aluminium, as opposed to a high quality bespoke design in hardwood is questioned, particularly taking into account the fact that this is a Listed Building in a prominent position within one of the city's premier Conservation Areas. A condition is therefore imposed to ensure that this detail is reviewed to the satisfaction of the Local Planning Authority.

#### The impact of the development upon the highway network.

The proposed development is considered to be located within a sustainable location (just a short walk from the City Centre Core Area and the various amenities that are provided). On this basis, the proposed car parking standard



of 4 spaces serving 6 units is supported particularly as two-thirds of the units will only have 1 bedroom.

No dedicated off-street car parking spaces are provided to serve the ground floor commercial unit. However, as there are several public car parks within easy walking distance of the site and the likelihood that most visitors would arrive on-foot in any case, this is considered to be acceptable and is supported by Core Strategy Policy CS28 and Government guidance within PPG13.

The Highway Authority does not object to the proposed development on the basis that four car parking spaces are maintained for use by residents of the building; adequate cycle parking is provided, and the loading and unloading for delivery vehicles is restricted to the private car parking area to the side of the site rather than the kerbside on Vauxhall Street. Accordingly appropriate conditions are recommended to ensure that the above are delivered.

Third party queries seeking assurance that all 8 car parking spaces used by the adjoining business will be maintained throughout the re-development period and that these will not be used by residents or customers of the retail units are acknowledged. A contractor's code of conduct condition is recommended which will address this matter, in addition to a condition requiring details to be submitted of the proposed management of the car parking area.

Overall in terms of access and transport, the proposed scheme is considered to comply with adopted Core Strategy Policies CS02, CS28 and CS34.

#### Community Benefits

In order to set the proposed development in the context of the current economic climate, it is important to note that the Council formally agreed, on 14<sup>th</sup> October 2008, the adoption of a series of phased-in temporary concessions to be granted for developments in relation to the Plymouth Development Tariff. It was agreed that as part of these measures, 50% of the tariff will be charged for the development of previously developed brown-field land.

On this basis, if the application were to be considered outside of the umbrella of the Market Recovery Action Plan, but include the 50% tariff reduction on the basis of the independently verified viability assessment submitted with the application, the development would be required to make a financial contribution of £27,212 towards the Plymouth Development Tariff in accordance with the adopted Planning Obligations and Affordable Housing Supplementary Planning Document (SPD2).

The current scheme is brought forward under the structured approach of the Market Recovery Plan. If approved, it would deliver a mixed use development starting on site within the next two years, within what is still likely to be a restricted financial climate. This early start is one of the requirements of the recommended S106 Obligation.

The viability assessment submitted with the application makes a case that the development cannot afford to deliver the reduced Plymouth Development Tariff contribution. Under the parameters of the Market Recovery Action Plan, it is proposed that a reduced tariff contribution of £10,000 is made.

At the time of writing the committee report, the viability assessment was still being verified by the Council. The results of this verification process will be reported as an addendum, although it is anticipated that the report will be accepted.

Whilst it is noted that on this basis the proposal will not fully mitigate against the adverse community infrastructure impacts of the development as required by adopted Core Strategy policy CS01. The impact of one site failing to fully deliver the requirements of the Plymouth Development Tariff required by Council policy is considered to be insignificant, when set against the context of making a noteworthy contribution to the delivery of the wider regeneration of the environs of the Sutton Harbour waterfront, as supported by adopted Core Strategy and Sutton Harbour Area Action Plan objectives and policies.

Subject to the financial appraisal being verified, it is recommended that the reduced financial contribution to the Development Tariff be agreed. In addition, a “clawback” clause shall be incorporated within the S106 Obligation in order to ensure, should the final development profit exceed that predicted within the submitted viability assessment, that this additional profit is paid back to the Council to increase the development contribution towards the delivery of additional community infrastructure up to the total amount otherwise required under the full Plymouth Development Tariff.

### Other Matters

The Public Protection concern that a preliminary risk assessment of potential ground contamination at the site (Phase I Desk Study) has not been submitted with the application can be addressed by the imposition of an appropriate Grampian condition.

### 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**

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

### **Section 106 Obligations**

The following clauses and financial contributions towards strategic infrastructure are required in connection with the development under the parameters of the Market Recovery Action Plan and Plymouth Development Tariff:

1. A contribution of £10,000 towards the Plymouth Development Tariff payable upon commencement of the development.
2. Development to commence within two years.
3. Developer to commission a post scheme development appraisal to be submitted to the Local Planning Authority, and support other monitoring arrangements in order for Planning Services to review the impact of the Market Response Action Plan.
4. A “clawback” clause be incorporated within the S106 Obligation to ensure, should the above post development appraisal identify that the final development profit has exceeded 15%, that 100% of this additional profit is paid back to the Council to increase the development contribution towards the delivery of community infrastructure in line with adopted planning policy and the Plymouth Development Tariff (up to the maximum amount that would have otherwise been required under the Plymouth Development Tariff).

### **Conclusions**

The principle of residential and commercial use in this property has previously been accepted under planning consent 02/00285. It is noted that the A4 (drinking establishment) use has been deleted from the application and the proposed ground floor uses (A1 and A3) are therefore considered to be acceptable and fully supported by policy CS13.

Residential use within this building is accepted as a suitable means of bringing forward a new use for the building however it is important that the applicant demonstrates that the potential impact of noise and smells from adjoining commercial premises are adequately mitigated against. The additional acoustic survey that has been requested will address this matter and the results of this survey and related Public Protection comments will therefore be reported as an addendum to this report. It is expected that information on the level of mitigation measures required to enable an adequate standard of residential environment to be created will be available in time for the committee meeting.

The proposed internal and external alterations are considered to preserve and enhance the appearance, character and setting of the Listed Building and that of the Barbican Conservation Area. As such the works accord with Policies CS01, CS02, CS03 and Area Vision 5 of the adopted Core Strategy, the objectives of the Sutton Harbour Area Action Plan and adopted Design Supplementary Planning Document and Government advice contained within PPG15.

Deliberations on the noise pollution issues and the development viability will make it impossible for the application to be determined within the statutory 13 week timescale taking into account the requirement for a Section 106 Obligation.

It is therefore recommended that the application be conditionally approved subject to the satisfactory completion of the S106 Obligation. Delegated authority is also sought to refuse the application should the S106 Obligation not be signed within a reasonable time period following Planning Committee. It is suggested that this should be by the 4<sup>th</sup> of May, 2010.

### **Recommendation**

In respect of the application dated **18/12/2009** and the submitted drawings, it is recommended to: **Grant conditionally subject to the satisfactory completion of the S106 Obligation. Delegated authority to refuse the application should the S106 Obligation not be signed by the 4<sup>th</sup> May 2010.**

### **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.

#### **CONTAMINATION - LAND QUALITY**

(2) Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until points 1 to 3 (below) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until point 4 has been complied with in relation to that contamination.

#### **1.Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is

subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a desk study characterising the site and identifying potential risks from contamination;
- (ii) a survey of the extent, scale and nature of contamination;
- (iii) 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;
- (iv) 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'.

## 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and 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.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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.

## 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development 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 in accordance with the requirements of point 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of point 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.

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 Core Strategy Policy CS22, CS34 and Government advice contained in PPS23.

#### CODE OF PRACTICE DURING CONSTRUCTION

(3) 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. Unless otherwise agreed previously in writing with the Local Planning Authority, the existing 8 car parking spaces occupied by the adjoining business premises (Davies Johnson) and vehicular access thereto shall be

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.

#### FURTHER DETAILS

(4) Notwithstanding the submitted details, no work shall commence until the following details have been submitted to and agreed in writing by the Local Planning Authority:

- (i) Details of the design, materials and finish of the new balconies;
- (ii) Details of the siting, design, materials and finish of any proposed external extract /intake flues, pipes, vents or grills.

The works shall be carried out strictly in accordance with the approved details.

Reason:

To ensure appropriateness and quality of materials and that the details of the proposed work do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## ROOFLIGHTS

(5) Notwithstanding the submitted details of the new rooflights, no works shall commence until details of the size, method of construction, design, materials, finish and sound attenuation of all new and replacement rooflights have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

### Reason:

To ensure appropriateness, quality of design and materials and sound attenuation are achieved, and that the details of the proposed work do not conflict with Policies CS02, CS03, CS13, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and Government advice contained within PPS1, PPG15 and PPG24.

## WINDOW AND DOOR DESIGN

(6) Notwithstanding the submitted details of the design and materials of the new windows and doors, no work shall commence until details of all new and replacement windows and doors have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

### Reason:

To ensure appropriateness and quality of materials and sound attenuation are achieved, and that the details of the proposed work do not conflict with Policies CS02, CS03, CS13, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and Government advice contained within PPS1, PPG15 and PPG24.

## SECONDARY GLAZING

(7) No works shall commence until details of the proposed secondary glazing shall have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

### Reason:

To ensure appropriateness, quality of design and materials and sound attenuation measures are achieved and that the details of the proposed work do not conflict with Policies CS02, CS03, CS13, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and Government advice contained within PPS1, PPG15 and PPG24.

## JOINERY DETAILS

(8) No works shall commence until a schedule of all joinery details (with cross sections at 1:5 scale and 1:1 moulding details) have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

### Reason:

To ensure appropriateness and quality of design and materials and that the details of the proposed work do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### MORTAR, PLASTER AND RENDER DETAIL

(9) No works shall commence until a schedule of mixes for all mortars, plasters and renders to be used has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved schedule.

#### Reason:

To ensure appropriateness and quality of materials and that the details of the proposed work do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### RECORDING OF EXISTING STAIRS

(10) No works shall commence until a written, drawn and photographic record, as appropriate, of the existing stairs shall have been completed, and submitted to and approved in writing by the Local Planning Authority.

#### Reason:

To ensure that an adequate record is made and retained of this element of historic fabric and to ensure that the proposed works do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### VENTILATION AND ODOUR CONTROL

(11) Before the commercial use hereby permitted is first implemented, details of the siting, specification and design (including details of any proposed extraction flues) of equipment to extract and disperse cooking odours of that unit shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the commercial use first commences and shall be retained at all times thereafter. Any alteration or variation to the equipment shall be submitted to and agreed in writing by the Local Planning Authority prior to implementation.

#### Reason:

In the interests of amenity and to ensure the appearance of the equipment is acceptable in accordance with policies CS02, CS03, CS22 and CS34 of the adopted Core Strategy..

#### CONTROL OF NOISE LEVELS

(12) The noise generated by the extract ducting/ventilation/air conditioning equipment (LAeqT) shall not exceed the background noise level (LA90) by more than 5 decibels, including the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property.

#### Reason:

To control noise levels generated by the use hereby permitted, in accordance with policies CS22 and CS34 of the adopted Core Strategy.



## WASTE STORAGE

(13) Notwithstanding the submitted details of the proposed siting and design of the waste storage area, the uses hereby permitted shall not commence until details of the proposed method of commercial and domestic waste storage, disposal and recycling have been submitted to and approved in writing by the Local Planning Authority. The waste and recycling shall be stored in a manner that will prevent the encouragement of pests. The approved method shall thereafter be adopted at all times. For the avoidance of doubt, unless otherwise agreed in writing with the Local Planning Authority the storage of waste containers within the carpark area is not permitted.

### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects of refuse and vermin, and ensure that the location of the bin storage area does not detract from the appearance, character and setting of the listed building and conservation area, to avoid conflict with policies CS02, CS03, CS22 and CS34 of the adopted Core Strategy.

## COMMUNAL CAR PARKING PROVISION

(14) No unit of residential accommodation shall be occupied until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for a maximum of 4 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The submitted details shall include measures to control the use of the permitted car parking areas and that of the adjoining car parking spaces currently used by the adjoining business premises.

The agreed details shall thereafter be so retained for the said purpose unless otherwise agreed previously in writing with the Local Planning Authority.

### Reason:

In the opinion of the Local Planning Authority, although some provision needs to be made, the level of car parking provision should be limited in order to assist the promotion of sustainable travel choices in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## CYCLE PROVISION

(15) No unit of accommodation shall be occupied until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for 6 bicycles to be parked within a secure and covered area.

### Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CYCLE PROVISION

(16) The ground floor commercial uses shall not be occupied until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for 2 bicycles to be parked.

#### Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CYCLE STORAGE

(17) 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.

#### LOADING AND UNLOADING PROVISION

(18) Notwithstanding the submitted information, before the development hereby permitted is first brought into use, adequate provision shall be made to enable goods vehicles to be loaded and unloaded within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

#### Reason:

To enable such vehicles to be loaded and unloaded off the public highway (Vauxhall Street) so as to avoid:- (i) damage to amenity; (ii) prejudice to public safety and convenience; and (iii) 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

(19) Unless otherwise agreed previously in writing with the Local Planning Authority, the ground floor commercial uses hereby permitted shall not be open to customers outside the following times: 08.00 - 23.00 hours Mondays to Saturdays inclusive and 09.00 - 22.00 hours on Sundays and Bank or Public Holidays.

Reason: To protect the residential and general amenity of the building and 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.

## USE OF ACCESS DOORS

(20) Notwithstanding the submitted information, the ground floor access door to the corner commercial unit on the north elevation of the building shall be first constructed and subsequently maintained for use as restricted access fire exit only in accordance with details to be submitted to and agreed in writing with the Local Planning Authority, and shall not be used as a primary or secondary entrance to the ground floor commercial unit.

### Reason:

To control noise levels generated by the use hereby permitted, in accordance with policies CS22 and CS34 of the adopted Core Strategy.

## INFORMATIVE - CODE OF PRACTICE DURING 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. Confirmation that the existing car park access and 8 car parking spaces in use by the adjoining business premises will be maintained for the said use and not be unreasonably obstructed during the development works.

## INFORMATIVE - EXCLUSION FROM CONTROLLED PARKING ZONE

(2) The applicant's attention is drawn to the fact that the building will continue to be excluded from the Controlled Parking Zone that is in operation within the area.

## INFORMATIVE - GREASE SEPARATION

(3) 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 and designed in accordance with prEN1825-2 or other effective means of grease removal. In light of the problems caused by grease from catering establishments blocking drains, the operator of the commercial units is strongly recommended to provide a grease separator to the drainage serving the kitchens.

## INFORMATIVE - MARKETING STATEMENT

(1) It is recommended that all marketing particulars associated with the sale or letting of the residential units include a statement making specific reference to the fact that some bedroom windows are located next to and directly overlook the adjoining nightclub which is licensed until 4am.

### **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 upon neighbouring properties; The impact of existing commercial uses on proposed residential apartments; The impact of the development upon the appearance, character and setting of the building and Barbican Conservation Area; 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, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001, and (c) relevant Government Policy Statements and Government Circulars, as follows:

- PPG13 - Transport
- PPG15 - Planning and the Historic Environment
- PPG24 - Planning and Noise
- PPS3 - Housing
- PPS1 - Delivering Sustainable Development
- PPS23 - Planning & Pollution Control
- CS28 - Local Transport Consideration
- CS32 - Designing out Crime
- CS33 - Community Benefits/Planning Obligation
- CS34 - Planning Application Consideration
- CS22 - Pollution
- CS13 - Evening/Night-time Economy Uses
- CS21 - Flood Risk
- CS03 - Historic Environment
- CS01 - Sustainable Linked Communities
- CS02 - Design
- CS15 - Housing Provision
- PPS25 - Development and Flood Risk
- SPD2 - Planning Obligations and Affordable Housing
- SPD1 - Development Guidelines