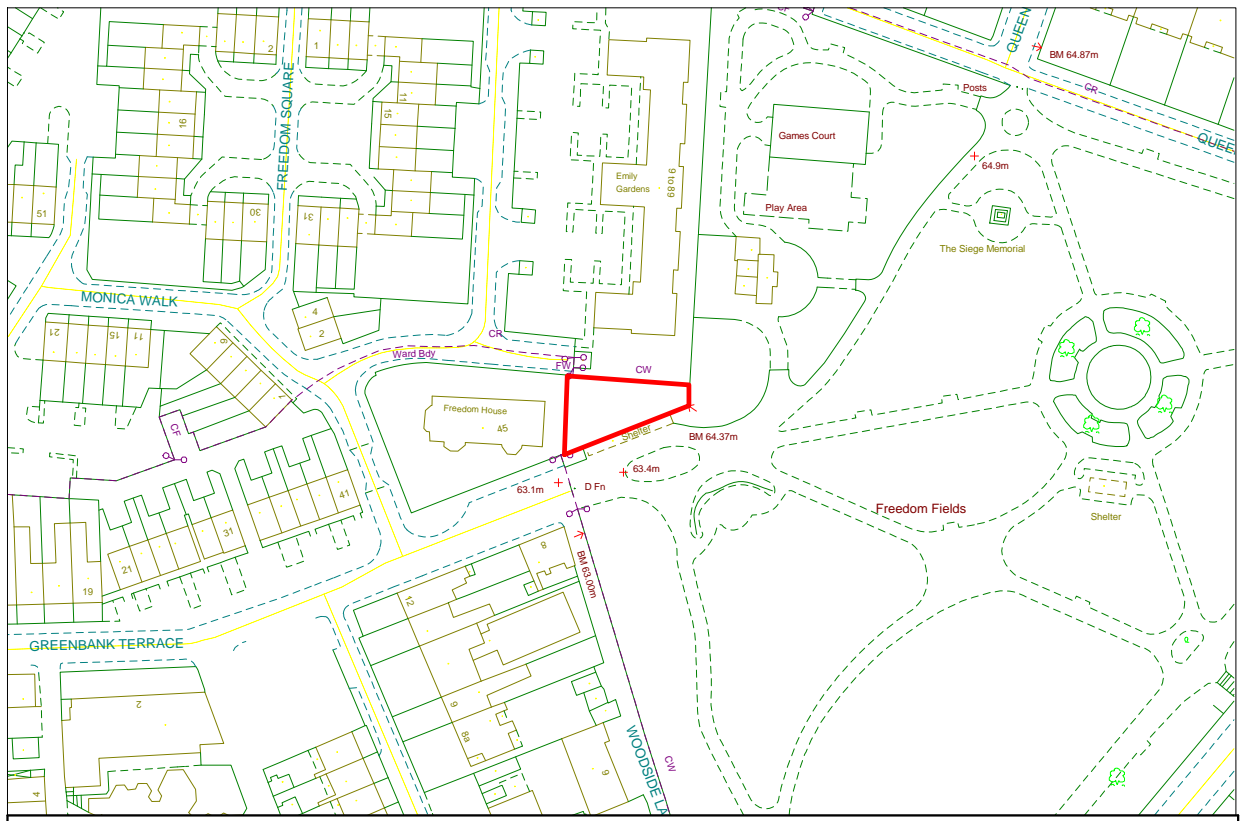


ITEM: 6

Application Number: 10/00558/FUL
Applicant: Mr E Kamaie
Description of Application: Develop vacant land by erection of detached dwelling
Type of Application: Full Application
Site Address: LAND ADJACENT TO FREEDOM HOUSE 45
GREENBANK TERRACE PLYMOUTH
Ward: Drake
Valid Date of Application: 14/04/2010
8/13 Week Date: **09/06/2010**
Decision Category: Member Referral
Case Officer : Jon Fox
Recommendation: Grant Conditionally
Click for Application Documents: www.plymouth.gov.uk



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OFFICERS REPORT

This application has been referred to the planning committee by an elected member of the Council on the grounds that the site has been the subject of previous applications for development, which were refused and residents are concerned about the affect on their properties should this application be granted by planning committee.

Site Description

The site comprises part of the curtilage of Freedom House, which previously formed part of the Freedom Fields Hospital site and is located to the north western corner of Freedom Fields Park, on Greenbank Terrace. The former hospital building was founded in 1906 and designed in an Edwardian Baroque style. It includes a prominent 3 storey entrance bay with tripartite windows at mid floor level. The curtilage of Freedom House is triangular shaped and it is the top 1/3 of the triangle, which projects into the Park that constitutes the site. The site is separated from the park by a high stone wall.

The application site seeks to utilise part of the triangular curtilage to the east side of Freedom House, adjoining the Park. There is a relatively new 4 storey block of apartments approximately 10 metres beyond the northern site boundary, which is marked by a wall approximately 1.8 metres high. The site is at its mean width 11m (4m to the Park boundary and 20 m adjacent to Freedom House) by 28m length. The flat block is part of the Freedom Fields Hospital redevelopment site which consists of mostly terrace housing with this single larger flat block overlooking the park. Predominately large terrace houses characterize the surrounding area.

Freedom House is grade II listed and Freedom Fields Park is of historic interest.

Proposal Description

To develop the land by the erection of a detached dwelling of a modern two-storey design with a flat roof. The dwelling would be inverted from the traditional arrangement, with three bedrooms at ground-floor level and the lounge and kitchen-dining room at first-floor level.

Relevant Planning History

09/01197 - Develop vacant land by erection of detached dwelling. This application proposed a chalet-style bungalow with rooms in the roof. Refused for the following reasons:

- (1) The Local Planning Authority considers that the design of the proposed dwelling, within the curtilage of a listed building, and adjacent to Freedom Fields Park, does not reflect its context in the way a lodge-type building should and the design, form, materials and overall scale and footprint is considered to be poor and does not respond to its context, which is contrary to Planning Policy Statement 1 (PPS1)

- (2) The submitted plans do not attempt to show how the proposed new building would relate to the existing listed building, Freedom House. The Local Planning Authority considers that the design, form, materials and overall scale and footprint of the proposed dwelling, and the lack of contextual appreciation of how it sits within the curtilage of the distinguished listed building, would create a visual conflict and an inappropriate setting for this listed building. The proposals are therefore contrary to Planning Policy Guidance Note 15 (Planning and the Historic Environment) and to policies CS02 and CS03 of the Core Strategy of Plymouth's Local Development Framework 2007.
- (3) The application premises are located in an area where there is considerable demand for kerbside car parking during the day and overnight and the proposed development does not make adequate provision for off-street car parking for the occupants of this dwellinghouse. Consequently the proposed development would, because of the inadequacies of its parking arrangements, be likely to cause conflict between vehicle and pedestrians and encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and thereby add to the hazards of road users in this street. The proposal is therefore considered contrary to Policies CS28 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.
- (4) The proposed dwelling is over-large for the site with an oversized footprint creating a large dwelling with insufficient amenity space, which the Local Planning Authority considers to be harmful to the living conditions of residents and contrary to policies CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

09/00300 - Develop vacant land by erection of detached dwellinghouse. This application was refused for similar reasons, plus a reason relating to land contamination aspects.

Consultation Responses

Highway Authority

The proposed car parking spaces are 2.4 metres wide, which is considered inadequate given they are constrained by walls and the turning manoeuvre into them is a little tight. Therefore the spaces should be widened to three metres each, which is likely to involve the moving the wall next to space2.

Public Protection Service

No objections subject to conditions relating to land quality, code of practice, good room criteria and bin storage.

Representations

Six letters were received, which raise the following objections:-

1. Harmful to setting of Freedom House listed building and the Victorian park.
2. Loss of openness in a densely populated area
3. Adverse impact on the character of the park and its surroundings.
4. Loss of daylight and sunlight from south facing garden and dwellings.
5. Wall of dwelling is too close to boundary wall on north side and will hinder maintenance.
6. The land was intended to be a car park.
7. Visual intrusion/loss of outlook.
8. The light from existing street lamps will be blocked.
9. The use of cedar cladding and a flat roof is out of keeping with the design of other buildings.
10. Loss of view.

Analysis

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.

The main issues in this case are the impact on the listed building at Freedom House; the impact on the character and appearance of the area, including the specific relationship of the proposals to the listed building and the adjoining park; the impact on residential amenity, particularly of the occupiers of the flats to the north; car parking and amenity space on the site.

With regard to the impact on the listed building and the character of the area, it is considered that the principle of a modern building of this form and design is acceptable because, while making a statement of its own, its overall size, scale and position, relative to Freedom House, would not be harmful to the setting of the listed building or the character of the park, from which the building would be partially screened by the existing high stone boundary wall. However, the materials are a vital element in allowing a building of this style to be considered in this setting. Unfortunately the design is considered to use too much cedar cladding, which at first floor level would be clearly visible from the park and surroundings. This amount of cladding would stand out as an incongruous and discordant element in its surroundings and would be harmful to the setting of the listed building and the character and appearance of the area. In addition, the proposed flat roof, which is a prominent, 'signature' element of the design is proposed to be made of single-ply PVC sheet membrane, whereas the setting and surroundings of the site strongly indicate that a metal roof would provide the quality necessary in this case. However,

subject to negotiations to secure the use of better quality materials the application is considered to be in a form that should be supported, with an appropriate condition being recommended, and on this basis is in accordance with policies CS02, CS03 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007, and Government planning guidance note 15.

With regard to the impact on neighbours' amenities, the main impact is on the outlook from, and sunlight/daylight to, the flats to the north (Emily Gardens), as well as the garden space between the flats and the northern site wall. The northern elevation of the proposed building is approximately 5.4 metres high, although the two-storey part is approximately 1.8 metres off-set from the boundary wall. At ground floor level the boundary wall is effectively raised from 1.8 metres to 3.15 metres by virtue of the roof over the covered hall. While it is clear that the building will restrict some sunlight and daylight to the flats and garden, especially being to the south, the building would be situated to the western end of the boundary wall and as such there would still be an open aspect to the south, albeit benefitting some flats more than others. The outlook from the flats and garden would be affected but not significantly for the same reason, and that the first floor is set back from the boundary wall itself. In these respects the proposals are considered to be in accordance with policies CS15 and CS34 of the Core Strategy.

With regard to car parking, the proposed spaces are too narrow. However, it should be relatively straightforward to move the wall next to car space 2 so that the spaces can be widened. These changes can be sought by imposing relevant conditions. On this basis the proposals are considered to be in accordance with policies CS28 and CS34 of the Core Strategy.

With regard to amenity space, the footprint of the dwelling has been reduced compared to the previous proposals and the amount of space available to prospective occupiers is considered to be sufficient and as such preserves a degree of spaciousness within the site that is keeping with the character of the surroundings. In these respects the proposals are considered to be in accordance with policies CS15 and CS34 of the Core Strategy.

With regard to the response from the Public Protection Service, it is recommended that the condition on the use of good room criteria be made the subject of an informative note.

Equalities & Diversities issues

None

Section 106 Obligations

None

Conclusions

The proposals are considered to overcome the previous objections based on the impact on the listed building and the character and appearance of the area, and the lack of parking and amenity space. Therefore, subject to conditions it is recommended that planning permission be granted.

Recommendation

In respect of the application dated **14/04/2010** and the submitted drawings, **3630/100, 3630/101, and accompanying design and access statement** , it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

EXTERNAL MATERIALS

(2) Notwithstanding the submitted plans, the extent of cedar cladding proposed and the use of single ply PVC roof sheet membrane and PVC soffits and fascias is not approved and no development shall take place until details and/or samples of alternative materials to be used, with the possibility of cedar cladding being retained with reduced extent, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

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

CAR PARKING PROVISION

(3) The building shall not be occupied until the car parking area shown on the approved plans has been drained and surfaced and increased in width to provided a combined width of 6 metres overall (3 metres per space) in accordance with the details to be submitted to and approved by the Local Planning Authority, and that area shall not thereafter be used for any purpose other than the parking of vehicles.

Reason:

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

DETAILS OF BOUNDARY WALL

(4) No development shall take place until details of the height, design and materials to be used in the construction of the western site boundary wall, including the sections adjacent to car space 2 and the bins for the site and Freedom House, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the appearance of the wall is in keeping with the character of the area and preserves residential amenity, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

NO FURTHER WINDOWS OR DOORS

(5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order or the 1995 Order with or without modification), no further windows, external doors or other external openings (additional to those hereby approved) shall at any time be provided in the dwelling hereby permitted.

Reason:

In order to protect the privacy enjoyed by the occupiers of the nearby dwellings in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

OBSCURE GLAZING

(6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order or the 1995 Order with or without modification), the window in the north elevation of the dwelling hereby permitted at first-floor level shall at all times be obscure glazed and non-openable in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to protect the privacy enjoyed by the occupiers of the adjacent dwelling in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

RESTRICTIONS ON PERMITTED DEVELOPMENT

(7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order or the 1995 Order with or without modification), no development falling within Classes A (enlargement, improvement or other alteration of a dwellinghouse), B (enlargement of a dwellinghouse consisting of an addition or alteration to its roof), C (any other alteration to the roof of a dwellinghouse), D (erection or construction of a

porch outside any external door of a dwellinghouse), E (provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such), and F (provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such) of the Schedule to that order shall at any time be carried out unless, upon application, planning permission is granted for the development concerned.

Reason:

In order to preserve residential amenity and the character and appearance of the area, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

CODE OF PRACTICE DURING CONSTRUCTION

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

Reason:

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

BIN STORAGE

(9) Notwithstanding the submitted plans, details of the siting and form of bins for the disposal of refuse shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted commences. The refuse storage provision shall be fully implemented before the development is first occupied and henceforth permanently made available for future occupiers of the site.

Reason:

In order to ensure that adequate, safe and convenient refuse storage provision is provided and made available for use by future occupiers in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and the Council's Development Guidelines Supplementary Planning Document.

LAND QUALITY

(10) Unless otherwise agreed 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 conditions 11 to 13 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 condition 14 has been complied with in relation to that contamination.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

SITE CHARACTERISATION

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

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) Including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

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

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

SUBMISSION OF REMEDIATION SCHEME

(12) 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.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

(13) 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.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

REPORTING OF UNEXPECTED CONTAMINATION

(14) 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 condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, 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 condition 13.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

INFORMATIVE - CODE OF PRACTICE DURING CONSTRUCTION

(1) The management plan required by condition 8 shall 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, construction traffic parking; and
- c. Hours of site operation, dust suppression measures, and noise limitation measures.

INFORMATIVE - LAND CONTAMINATION AND THE PHASE 1 REPORT

(2) With regard to land contamination and the submitted Phase 1 report, the applicant is advised that the garage identified on Greenbank Terrace was previously a petrol filling station and there are records of tanks on the site. Consequently, the statement in the report that there are no records of any former petrol stations within 250m of the site is incorrect as petroleum files indicate otherwise. On this matter, and others in respect of the report, please contact the Council's Public Protection Officer on 01752 304154.

INFORMATIVE - GOOD ROOM CRITERIA

(3) The applicant is advised that all dwellings should be constructed so that the living rooms and bedrooms meet the good room criteria as set out in BS 8233:1999, in order to protect any future occupants and neighbours from any unwanted disturbance.

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 on the listed building at Freedom House; the impact on the character and appearance of the area, including the specific relationship of the proposals to the listed building and the adjoining park; the impact on residential amenity, particularly of the occupiers of the flats to the north; car parking and amenity space on the site, and contamination aspects, 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 (a) 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:

PPG15 - Planning and the Historic Environment

PPS1 - Delivering Sustainable Development

PPS23 - Planning & Pollution Control

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration

CS22 - Pollution

CS03 - Historic Environment

CS02 - Design

CS15 - Housing Provision

SPD1 - Development Guidelines