

ITEM: 07

Application Number: 09/01645/FUL

Applicant: Mr James Sutherland

Description of Application: Extension to nursing home including the addition of a first floor above the single-storey wings with an increase in bedrooms from 43 to 66

Type of Application: Full Application

Site Address: DOWN HOUSE, 277 TAVISTOCK ROAD
DERRIFORD PLYMOUTH

Ward: Budshead

Valid Date of Application: 22/03/2010

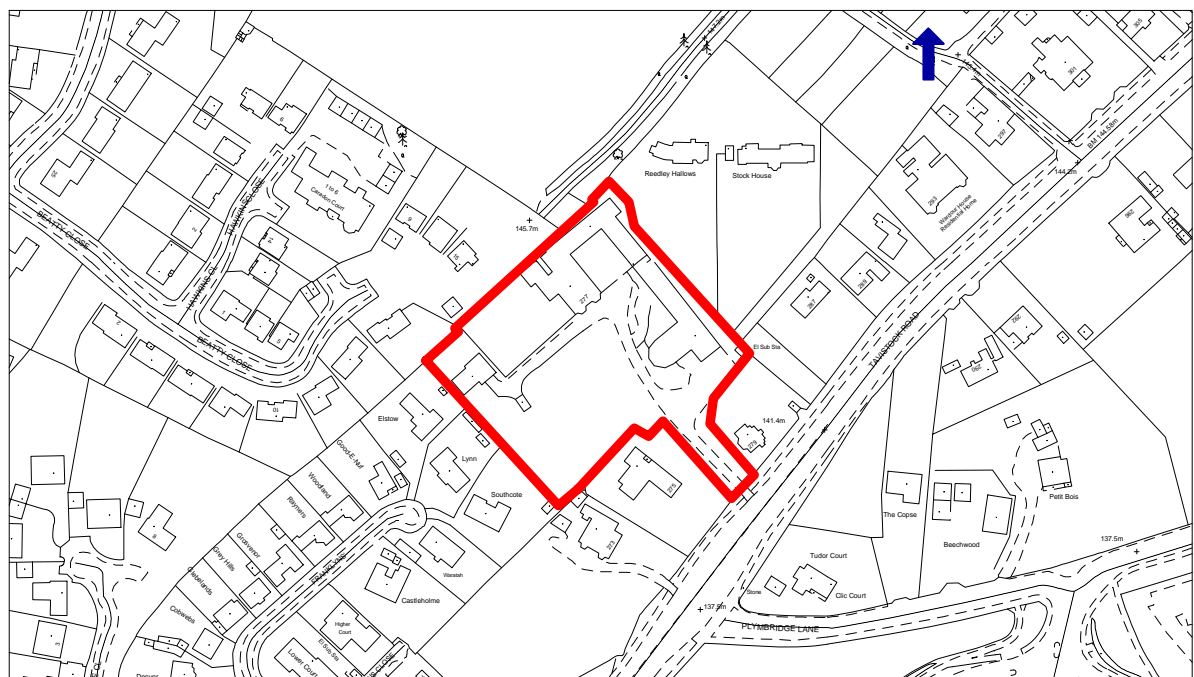
8/13 Week Date: **21/06/2010**

Decision Category: Major Application

Case Officer : Robert McMillan

Recommendation: Grant Conditionally

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OFFICERS REPORT

Site Description

The site is on the north west side of Tavistock Road north of the Derriford roundabout opposite the junction of Plymbridge Lane with Tavistock Road. It is a residential area surrounded by dwellings and a playing field to the north. It has an area of 0.76 hectares and a short frontage with Tavistock Road of 13 metres. The original house is an attractive double bay fronted established villa built in the Queen Anne style in the north eastern part of the site. This has two storey additions to the west and rear together with single storey northern and eastern wings. The southern part of the long eastern wing has a western projection. This is close to a large Horse Chestnut tree. In the north western part of the site is a house associated with the Nursing Home. The south western part of the site is open land with an attractive Lime tree. There are Lime trees to the left of the entrance to the site on the boundary with 275 Tavistock Road, some trees and a high hedgerow on the north eastern boundary with further trees and vegetation on the north western boundary. The trees on site are subject to Tree Preservation Order 36 (TPO) and those to the north west to TPO 130. The land falls from the back (north west) to the entrance (south east) by 4.5 metres but within the area of development the fall is about 1.5 metres.

Proposal Description

The proposal is similar to the existing permitted development under permission 03/1894. It is necessary to rectify constructional faults in the building works carried out in the part implementation of that permission. It comprises a substantial increase to the existing nursing home. It is in two phases. Phase 1 is the demolition of the two storey part behind and to the west of the original house. Phase 2 is a first floor extension to the northern wing and long eastern wing. The southern projection has a chamfered (half decagonal end). This will be squared-off with a balcony added. There will be a new small projection half way along the wing creating two courtyards.

The existing floorspace is 1,684 sq m. The completed development would be 2,973 sq m giving an increase of 1,289 sq m.

There are 43 bedrooms and the proposal provides 66 bedrooms, (two fewer than the approved scheme) giving an increase of 23 bedrooms. The residents would increase from 48 to 66, an increase of 18 which is seven fewer than the previous approval.

The materials would match the existing building being white render and slate hanging under a slate roof with UPVC windows and doors.

Relevant Planning History

04/00681 – FULL - Variation of condition 6 of planning permission 03/01894 to allow limited opening of windows – GRANTED.

03/01894 – FULL - Alterations and extensions to nursing home, including an additional floor to wing adjacent to north west and north east boundary and two storey extension rear of original house (Revised scheme) – GRANTED.

03/00907 – FULL - Alterations and extensions to nursing home, including an additional floor to wing adjacent to north west and north east boundary and two storey extension rear of original house extension rear of original house – REFUSED.

02/00539 – FULL - Single storey extension to nursing home to provide fifteen additional bedrooms (renewal of previous permission) – GRANTED.

97/0614 – FULL - Single storey extension to nursing home to provide fifteen additional bedrooms – GRANTED.

89/02587 – FULL - single storey extension to nursing home and provision of additional parking area – GRANTED.

85/00953 – Extension to Nursing Home – GRANTED.

81/003364 - Change of use from dwelling house to private nursing home – GRANTED.

Consultation Responses

Highways Agency

No objection.

Plymouth City Airport

No objection.

Local Highway Authority (LHA)

No objection subject to conditions.

15-16 parking spaces should be provided to comply with the Council's maximum parking standards. This does not account for the site's accessibility in the Northern Corridor. The applicant is intending to provide eight more spaces but the LHA does not necessarily require them.

The current arrangements are somewhat haphazard. The spaces are not marked out that can lead to inefficient use of the space. The spaces should be clearly demarcated. If the applicant requires the additional spaces these should be clearly marked too along with details of the ambulance drop-off and collection area. Adequate manoeuvring space should be required to the rear of the spaces.

Four secure and covered cycle parking spaces should be provided.

Public Protection Services

No objection subject to conditions relating to: Code of Practice, noise protection to the bedroom/living rooms, noise and odour mitigation from the mechanical extract ventilation system.

Representations

The Council received three letters of representation from two neighbouring properties. They make the following points:

1. Loss of privacy from the first floor windows so close to the boundary;
2. Previous application had fewer openings;
3. The previous condition stated that the first floor windows should be in obscure glass and non-openable;
4. The development is too bulky;
5. Would not wish to remove the trees or hedge on the north east boundary of the site to provide light to the new extension;
6. Noise and fumes from the extraction flue system;
7. The vent flue should be taken through the first floor;
8. The new floor plan should follow the previously approved one with a walkway on the ground floor; this would help remove maintenance difficulties;
9. Should have been consulted on the previous amendments to 03/01894;
10. Building so close to the boundary will cause maintenance problems; and
11. Possible damage to property.

Analysis

The main issues with this application are: the planning history of the site; the impact on adjoining properties and the effect on the trees. The main Core Strategy policies are: CS01 – Development of Sustainable Linked Communities, CS02 - Design, CS18 – Plymouth’s Green Spaces, CS28 – Local Transport Considerations and CS34 – Planning Application Considerations. The Development Guidelines and Design SPDs are also relevant.

Background

The recent planning history of the site is an important consideration. Planning applications for similar large extensions were made in 2003, references 03/00907 and 03/01894. The first was refused and dismissed on appeal and the second was permitted. A later application to amend condition 6 of 03/01894 was made to allow the first floor windows to open. This was granted subject to the opening restricted to the top fanlight and limited to open no more than 150mm. The principle of a development of this bulk, size and massing has been established by the previous permissions.

The applicant started the building works. These were not built in accordance with the approved plans. Also an unauthorised flue was installed on the roof

on the single storey lean-to part of the development close to the garden of 15 Beatty Close. Following the Local Government Ombudsman's investigation an enforcement notice was issued and the applicant lowered the flue. In addition the building works are sub-standard and the applicant will have to demolish a major part or all of these structures.

Local Government Ombudsman Investigation

The Local Government Ombudsman investigated a complaint that the extensions had been built in non compliance with the approved drawings. He agreed that this was the case. The main differences and source of complaint were that they had been built closer to the boundary with 15 Beatty Close, the ground floor walkway had been built as a solid wall and an unauthorised vent flue had been installed. There were also other differences including changes to roof and eaves heights that had been treated as minor amendments to planning permission 03/01894.

The enforcement test of expediency to take action is different and more onerous than the considerations to take into account when the Council determines applications. The LGO said:

“Whether enforcement action is appropriate will depend on whether what has been built has had such an adverse effect on the amenity of adjoining properties that it should not be allowed to remain.”

The objector's main concern was the position of the extension in relation to the boundary wall in comparison with the approved drawings. The LGO stated that the difference was not significant in planning terms. He did not criticise the Council's decision not to take enforcement action.

The LGO stated that: it is arguable that the amendments should have been the subject of consultation so that the objector could have made comments before the Council made its decision. He continued:

“Nevertheless, I do not conclude that a different decision would have been made on enforcement if these changes had been assessed in detail and you had been given the opportunity to make representations. As noted above, it would be necessary for the Council to demonstrate that the extension as built had an unacceptably adverse impact on your property so that it should not be allowed to remain. The evidence does not support a conclusion that this would have happened.

The Council has advised you correctly that until the building is substantially complete it would not be possible to take enforcement action to require the wall facing your property to be rendered to match the existing. Moreover at that time the Council would have to demonstrate that the impact of the unrendered wall is so unacceptable that it should not be allowed to remain. It would be difficult to make that argument if you were refusing the builder access to do the work.”

He concluded that despite the administrative errors by the Council the evidence suggested that the impact on the neighbour's property would not have been reduced had the errors not occurred. He could see no grounds to recommend that the Council take further action to address the neighbour's concerns (apart from the issue of the vent on which action was taken).

These findings are relevant to the consideration of the application.

Effect on residential amenity

The main differences from the approved and as-built development are:

North western wing

The filling in of the ground floor walkway with a solid external wall instead of columns that supported the first floor;

The addition of two ground floor windows;

The removal of one first floor window, replaced with a rooflight;

North western part behind the original house

Change to the roof shape;

Addition of two doors, two rooflights and an air inlet vent to the single storey lean-to part;

Addition of three rooflights to the two storey roof;

Addition of an extract vent flue enclosed within a chimney stack protruding through the two storey roof;

North eastern wing

The filling in of the ground floor walkway with a solid external wall instead of columns that supported the first floor;

The addition of two first floor windows;

The addition of four ground floor windows and the removal of two doors;

The addition of a small projection roughly in the middle creating two courtyard-type areas;

The change to the shape of the southern projection from a chamfered end to a squared end and a small northern extension.

The main area of concern relates to the north western part of the proposals and to a lesser extent the outer wall of the north eastern wing.

Officers understand the objector's concerns that the north western parts were not built in compliance with the approved drawings. The Council investigated the matter and decided not to take enforcement action and the LGO did not disagree with that decision apart from the vent on which the Council did take subsequent action.

In the light of the LGO's conclusions officers believe that the positions of the proposed extensions are acceptable. In order that the walls facing adjoining properties are not unsightly the applicant should complete the rendered finishes subject to owners' consent where this is required.

Following the consultation exercise the applicant has amended this part of the development. The windows on the wing closest to 15 Beatty Close have been

removed and the first floor one replaced with a rooflight. The windows would be glazed in obscure glass and the fanlights will open but to no more than 150mm. This complies with the fall-back position of the previous permission allowing this, reference 04/00681. The first floor window to the staffroom has been removed and replaced with a rooflight and the vent flue chimney will now come through the roof above the first floor rather than through the single storey part. Conditions would be attached to mitigate nuisance from noise and odour from the extract system to prevent undue harm to residential amenity. In these circumstances the proposal would not cause harm to residential amenity of 15 Beatty Close and would comply with Core Strategy policies CS34 and CS22 and the Development Guidelines SPD.

There are small changes to the outer wall of the long north eastern wing but the impact on the adjoining gardens is reduced by the extensive and high hedge interspersed with trees along the boundary. The windows only serve a corridor and the first floor windows will be glazed in obscure glass with the fan lights opening restricted to be no more than 150mm. The property Reedley Hallows has a large garden and the nearest part of the extension is 24 metres from the back of the house. In these circumstances the proposal would not cause harm to residential amenity of Reedley Hallows and would comply with Core Strategy policies CS34 and CS22 and the Development Guidelines SPD.

The southern part of the north eastern wing is higher than the adjoining houses to the south, 279 – 281 Tavistock Road. But there is adequate distance between them to avoid overlooking. The distance from the balcony to 279 Tavistock Road is 27 metres and to 275 Tavistock Road is 26 metres with intervening trees in both cases. The distance from the first floor blank part of the side wall of the extension facing 281 Tavistock Road is 18 metres. These distances provide adequate separation to prevent overlooking or over-dominance and retain acceptable residential amenity to comply with policy CS34 and the Development Guidelines SPD.

Trees

The new extension to the rear and side of the 'old house' is to be rebuilt on the existing footprint therefore there will be no new tree issues. Care will still need to be taken during demolition not to harm trees on adjacent land.

The other part of the application - the alterations and extension to the eastern wing will result in the footprint extending towards the trees and shrubs on the north west and north eastern boundaries but still lies within the footpath area. The only trees of any maturity are two Sycamores on the southern part of the north eastern boundary that currently overhang the single storey roof. These will need to be pruned back to give working room and to clear the proposed second storey.

The Horse Chestnut to the south of the southern projection will not be directly affected as the footprint stays broadly the same but care will be needed to protect it when the second storey is built to prevent damage to the canopy from the erection of scaffold and during the construction phase.

Other matters

The long eastern wing is somewhat out of proportion with the original house but the design has been established by the previous decisions. The addition of the middle projection will help to break up the mass and run of the extension and create two courtyard-type areas. These could become attractive spaces subject to sensitive landscaping that would provide an attractive amenity for the residents. The use of natural slate for the roof and slate hanging is commended and will add interest to the appearance of the development.

The local highway authority is satisfied that the development will not cause additional problems on the congested Northern Corridor. It raises no concerns provided the parking arrangements are rationalised to ensure efficient use of the parking areas.

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

The development is designed to accommodate people in need of nursing care in particular the elderly and frail including those with disabilities. The proposals will meet their needs.

Section 106 Obligations

None required

Conclusions

The expansion of the Down House Nursing Home has been a complicated and contentious issue these past seven years for at least one of the neighbours and the applicant. Officers believe that the architects' revised scheme will rectify past building failings. The amendments to the scheme particularly on the north western part adjoining 15 Beatty Close and the safeguarding conditions will not cause undue harm to residential amenity of any of the neighbouring properties. In officers' opinion it would seem to be in the neighbours' best interests to grant access to the applicant so the builders could complete the rendering of the walls facing adjoining properties to give them a satisfactory appearance. The design is acceptable. The trees and hedges will be safeguarded. There are no highway objections. The scheme will increase and improve nursing home provision in the northern part of the city for which there will be a growing demand. For these reasons the application is recommended for approval.

Recommendation

In respect of the application dated **22/03/2010** and the submitted drawings, **Topographical Survey, P113.100, P113.101A, P113.102A, P1113.103, P1113.104, P113.105, P1113.106A, P1113.107, P1113.108, P1113.109, P1113.110, P1113.111B, P1113.112B, P1113.113B, P1113.114B, P1113.115B, P1113.116B excluding the clear glass to some of the first floor windows, P1113.117A, P1113.118B excluding the clear glass to some of the first floor windows, P1113.119B, P1113.120C, Design and Access Statement, Tree Survey February 2010, Transport Statement and Phase 1 Contamination Survey**

Amended Plans: Changes to the North West elevation with the removal of windows, addition of rooflights, relocation of the extract flue and chimney from the ground floor lean to extension to protrude through the second storey , 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.

CODE OF PRACTICE

(2)Prior to the commencement of work on the development hereby approved, a detailed management plan for the construction phase of that phase of 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:

In the interests of residential amenity to comply with policies 22 and 34 of the Adopted Plymouth Core Strategy Development Plan Document 2007.

RENEWABLE ENERGY

(3)No work shall begin on the development hereby permitted until a report on on- site renewable production has been submitted to and been approved in writing by the local planning authority for the development. The report shall identify how a minimum of 15% of the carbon emissions for which the development is responsible for the period up to 2016 are off-set by on-site renewable energy production methods for that phase of development. The carbon savings which result from this will be above and beyond what is required to comply with Part L Building Regulations. If such requirements are to be provided by means of a biomass boiler in full or part, details shall also

be provided to demonstrate that the boiler will be used, which shall include a commitment to maintain the boiler and details of how a long term fuel supply can be secured and delivered. The proposed solutions should be considered in the light of the Derriford Sustainable Energy Strategy. The approved scheme shall then be provided in accordance with these details prior to the occupation of any of the development hereby permitted and thereafter retained and used for energy supply for so long as the development remains in existence.

Reason:

To provide on site renewable energy production to off-set 15% of predicted carbon emissions to comply with Policy CS20 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

NOISE

(4)All the living rooms/bedrooms shall be constructed so that they meet the good room criteria as set out in BS 8233:1999

Reason: To protect any future occupants from any unwanted noise disturbance to comply with policies CS22 and CS34 of the City of Plymouth adopted Core Strategy Development Plan Document, 2007.

EXISTING TREE/HEDGEROWS TO BE RETAINED

(5)In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of occupation of the extensions hereby permitted.

(a) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS 3998:1989(Recommendations for Tree Work).

(b) If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or is lopped or topped in breach of (a) above in a manner which, in the opinion of the Local Planning Authority, leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with the approved Arboricultural Method Statement contained in the Tree Survey dated 4 February 2010 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground areas within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 are protected during construction work and thereafter are properly maintained, if necessary by replacement.

PROVISION OF PARKING AREA

(6) None of the extra bedroom units hereby proposed shall be occupied until each of the 16 off-street car parking spaces have been constructed, drained, surfaced and demarcated in accordance with details to be submitted to and approved in writing by the Local Planning Authority and thereafter those spaces shall not be used for any other purpose other than the parking of vehicles.

Reason:

To enable vehicles used by occupiers, staff or visitors to the Nursing Home 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 policies CVS28 and CS34 of the City of Plymouth adopted Core Strategy Development Plan Document, 2007.

CYCLE PROVISION

(7) The development 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 4 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

(8) 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.

EXTERNAL MATERIALS

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

Reason:

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

SPECIFIED USE RESTRICTION

(10)The premises shall be used for a nursing/residential home and for no other purposes including any other purpose in Class C2 or C1 of the Schedule to the Town and Country (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason:

The Local Planning Authority considers that, in the particular circumstances of the case, the use of the premises for the purpose specified is appropriate but that a proposal to use the building for any other purposes would need to be made the subject of a separate application to be considered on its merits in accordance with Policies CS34, CS28 and CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

OBSCURE GLASS AND LIMITED OPENING

(11)Notwithstanding drawing numbers P1113.116B and 1113.119B all first floor windows on the north west and north east elevations facing adjoining properties to the north west and north east and the first floor window on the south west elevation serving the corridor shown on drawing number P1113.117A shall be glazed in obscure glass with the lower pane fixed. The top fan light may be opened but fitted with a restrictor to limit the opening to no more than 150mm. Details of the obscure glass shall be submitted to and approved in writing by the local planning authority. The obscure glass shall be installed in accordance with the approved details and remain as such permanently.

Reason:

To protect the residential amenities of adjoining properties and not to prejudice the development potential of adjoining land to comply with policy CS34 of the City of Plymouth adopted Core Strategy Development Plan Document, 2007.

NO ADDITIONAL OPENINGS

(12)No additional openings, windows, doors, rooflights or dormer windows shall be added to the north west, north east and south east elevations facing adjoining properties to the north west, north east and south east other than those shown on drawing numbers P1113.116B, 1113.119B and 1113.118B.

Reason:

To protect the residential amenities of adjoining properties to comply with policy CS34 of the City of Plymouth adopted Core Strategy Development Plan Document, 2007.

CODE OF PRACTICE INFORMATIVE 1

The management plan 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;

- 1) Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information.
- 2) 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.
- 3) Hours of site operation, dust suppression measures, noise limitation measures.

INFORMATIVE: PROPERTY RIGHTS INFORMATIVE 2

Applicants are advised that this grant of planning permission does not override private property rights or their obligations under the Party Wall etc. Act 1996 with particular reference to the boundary with 15 Beatty Close to ensure there is no damage to the boundary wall.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: the planning history of the site; the impact on adjoining properties and the effect on the trees 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:

- PPG13 - Transport
- PPS1 - Delivering Sustainable Development
- CS28 - Local Transport Consideration
- CS34 - Planning Application Consideration
- CS18 - Plymouth's Green Space
- CS22 - Pollution
- CS01 - Sustainable Linked Communities

CS02 - Design
SPD1 - Development Guidelines