

ITEM: 05

Application Number: 10/01160/FUL

Applicant: AXA P&C co AXA Real Estate Investment Managers (UK)

Description of Application: Erection of 2,449 square metres mezzanine level (shops tradable area) within existing building

Type of Application: Full Application

Site Address: WICKES UNIT (BLOCK B), FRIARY RETAIL PARK
EXETER STREET PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 25/08/2010

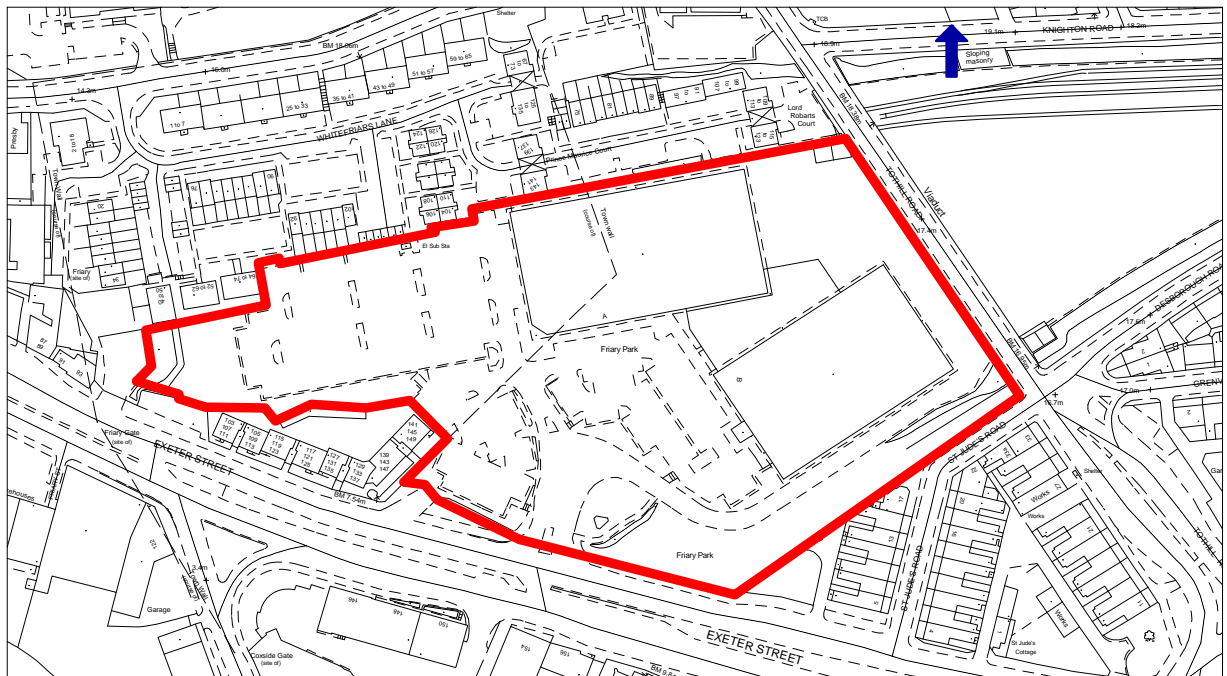
8/13 Week Date: **24/11/2010**

Decision Category: Major Application

Case Officer : Jeremy Guise

Recommendation: Grant Conditionally

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OFFICERS REPORT

Site Description

The application site is a large warehouse type retail shop situated in the north east corner of the Friary Park retail estate. Friary Park is located to the north of Exeter Street and west of Tothill Road Viaduct on the main approach into Plymouth city centre from the east.

Residential accommodation in Prince Maurice Court and Lord Roberts Court is located to the north and older Victorian terraced properties in St Judes Road adjoin the site to the south east.

Proposal Description

Planning permission is sought for the erection of 2,449 square metres mezzanine level (shops tradable area) within existing building.

Relevant Planning History

- Ref 86/01699/OUT - Outline application to redevelop railway goods yard with (1) non food retail stores, a garden centre, 400 car parking spaces (8 acres) & (2) residential. 16th September 1987.
- Ref:- 06/00706/EXDE - Installation of internal steelwork forming part of a mezzanine floor (2,449sqm total) - Lawful Development Certificate ISSUED (Planning permission not required) 12th July 2006.

Consultation Responses

Highway Authority – The applicant has submitted a Transport Assessment in support of the application which indicated that the increase in retail floor space will not proportionately increase the number of vehicle trips to site. The proposal will merely offer a wider range of stock to predominantly existing customers. Any increase will be accommodated within the space capacity of the junction to Exeter Street.

A car parking survey has been conducted which concludes that the existing facilities on-site have more than enough capacity to cater for any potential increase in demand.

The site is accessible by public transport and also has a good connection to other National Cycle Network, which runs along Exeter Street.

Due to the increase in size of the retail unit and the potential for the mezzanine floor to be used by a third party within the same use class it is possible that the number of staff could be increased. As such a draft Travel Plan has been submitted within the TA.

It is intended to promote non car based travel and travel awareness of staff and customers alike. To this end the applicant is proposing to provide public transport display information, cycle facilities and mobility impaired facilities.

The applicant has stated that cycle stands can be provided. It is suggested that whilst these are suitable for short staying customers they will not be an attractive option for staff. As such in addition, the applicant should provide secure and covered cycle storage for staff with lockers for personal equipment.

The Travel Plan is a working document and by appointment of a travel Plan co-ordinator will be reviewed periodically. A condition should be attached to any grant of consent to ensure that the applicant enforces the Travel plan and contact should be made with the City Council travel plan officer to formalise and agree the plan.

The Highway Authority recommends a green travel plan condition is attached to any permission.

Public Protection Service – No comment.

Police Architectural Liaison Officer (PALO) – The Devon & Cornwall constabulary are not opposed to granting planning permission from the application.

Representations

Neighbours have been notified of the application in accordance with Council guidelines and two site notices posted. This has resulted in one letter of representation (LOR) raising concerns about the application on the following grounds:-

As a nearby resident, we have seen a significant increase of noise, rubbish and odour from the back of the converted retail unit backing onto our estate. One of the newly built delivery doors is very close to our properties and as I sometimes work nights as an NHS professional I do not appreciate being woken up by noisy staff/fork lift trucks. The sound travels across and is accentuated by the high walls. In addition to this we have had an increase in anti social behaviour from teenagers from the flats in Exeter Street which back onto the retail park. They have on several occasions taken items from several retail units and used them as objects to be thrown at our properties leaving them strewn about our estate. As they climb over the fence near the railway bridge. My concerns is this: if there is an increase in cars visiting the upgraded Wicks unit, surely there will be an increase in car numbers and associated pollution, noise reduced traffic flow around this area. What will the Wickes management do to reduce the potential effect of this so as not to inconvenience or reduce our quality of life?

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 key issues in this case are:-

- The impact of the additional retail floor space upon the city's shopping hierarchy (Policies CS01 and CS07 of the Adopted Core Strategy)
- The adequacy of the proposed parking and impact of the proposal upon the surrounding road network (Policies CS28 of the Adopted Core Strategy)
- The impact upon the amenities of surrounding property (Policy CS32 and CS34 of the Adopted Core Strategy)
- Community contributions (Policy CS33 of the Adopted core Strategy)

The impact of the additional retail floor space upon the city's shopping hierarchy

Shopping provision in relation to retail parks is set out in Policy CS07/6 (Plymouth Retail Hierarchy) which states:-

“Laira Embankment area. To deliver a new retail destination of appropriate scale, quality and accessibility, which delivers improvements to this city centre location and enables the delivery of strategic transport measures on Plymouth's eastern corridor. This will be part of a wider mixed use regeneration initiative for the East End. The development will involve the closure of the existing Friary retail park and abandonment of existing retail warehousing planning consents in the Laira Bridge area.”

This proposal would expand and consolidate the existing Friary retail park and is, on the face of it, contrary to Policy CS07. But given the existence of a Certificate of Lawful Development for similar quantum of development - that acts as a significant 'fallback' position in any assessment – it is not considered that there are sufficient grounds to withhold planning permission and that an exception to Policy CS07/6 should be made.

The nature of the retailer, 'Wicks' a hardware shop, means that it will not be in direct competition with city centre retail functions. To ensure that that neither the city centre's role as the primary comparison shopping and retail destination is weakened by the proposed development or that the site attracts the volumes of traffic and ancillary uses associated with food retail it is proposed to impose a condition restricting the goods on sale to DIY home improvement products.

The adequacy of the proposed parking and impact of the proposal upon the surrounding road network

The nature of the use is not likely to attract significant additional traffic. Existing access and parking arrangements are adequate to cope with any additional demand generated by this development.

The impact upon the amenities of surrounding property

Friary Retail Park is relatively self-contained, with its own access, and the proposed additional floor space is located within an existing building. The

impact will be minimal. Whilst disturbance to shift workers from deliveries is regrettable, it would not be reasonable to try and control deliveries to this floor space during the hours of the normal working day. Distinguishing between deliveries of goods for sale at this floor space, and goods being delivered for sale at the existing floor space would be impossible, making any such condition unenforceable and therefore not sound.

Community contributions / Section 106 Obligations

Given the extant certificate of Lawfulness there is no scope for seeking a tariff contribution from this application.

Equalities & Diversities issues

None

Conclusions

The extant Certificate of Lawful development is a significant material consideration which distorts the assessment of this planning application. It frustrates the application of Policy CS07 in its' objective to secure the closure of the existing Friary Retail Park and acts as a brake on the collection of community benefits (tariff) that would otherwise be due. Some solace can be derived from the fact that the use to which the additional floor space is to be put, additional DIY home improvement sales area, is in line with the general nature of the current business activity and is unlikely to attract much more vehicle movement into the retail park, or have a major impact upon the city's existing retail hierarchy.

Recommendation

In respect of the application dated **25/08/2010** and the submitted drawings, **10/0572-TP101 & 10752-HP001 - A** , 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.

RESTRICTION ON SALES

(2) The floor space hereby approved shall be used only for the sale of the following DIY home improvement products: building materials; kitchens; gardens; tiles and floors; bathrooms; tools, electrical and plumbing; doors and windows; and decorating and interiors; unless otherwise agreed in writing by the Local Planning Authority.

Reason:

The Local Planning Authority has had regard to Policy CS07 (Plymouth Retail Hierarchy) of the Adopted Core Strategy and wishes to ensure that that neither the city centre's role as the primary comparison shopping and retail destination is weakened by the proposed development or that the site attracts the volumes of traffic and ancillary uses associated with food retail.

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 additional retail floor space upon the city's shopping hierarchy
- The adequacy of the proposed parking and impact of the proposal upon the surrounding road network
- The impact upon the amenities of surrounding property
- Community contributions

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 (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

- PPS1 - Delivering Sustainable Development
- CS28 - Local Transport Consideration
- CS32 - Designing out Crime
- CS33 - Community Benefits/Planning Obligation
- CS34 - Planning Application Consideration
- CS22 - Pollution
- CS07 - Plymouth Retail Hierarchy
- CS08 - Retail Development Considerations
- CS01 - Sustainable Linked Communities
- PPS4 - Economic Growth