

ITEM: 08

Application Number: 10/02131/FUL

Applicant: English Cities Fund

Description of Application: Residential redevelopment to build 48 new dwellings on the site consisting: 14 houses (3 x 3 bed and 11 x 4 bed) and 34 flats (18 x 2 bed and 16 x 1 bed), commercial floor space (approximately 370 sqm, use class A1, A2, A3 and/or B1a) and associated parking and landscaping

Type of Application: Full Application

Site Address: PLOT G, LAND AT MILLBAY ROAD PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 21/12/2010

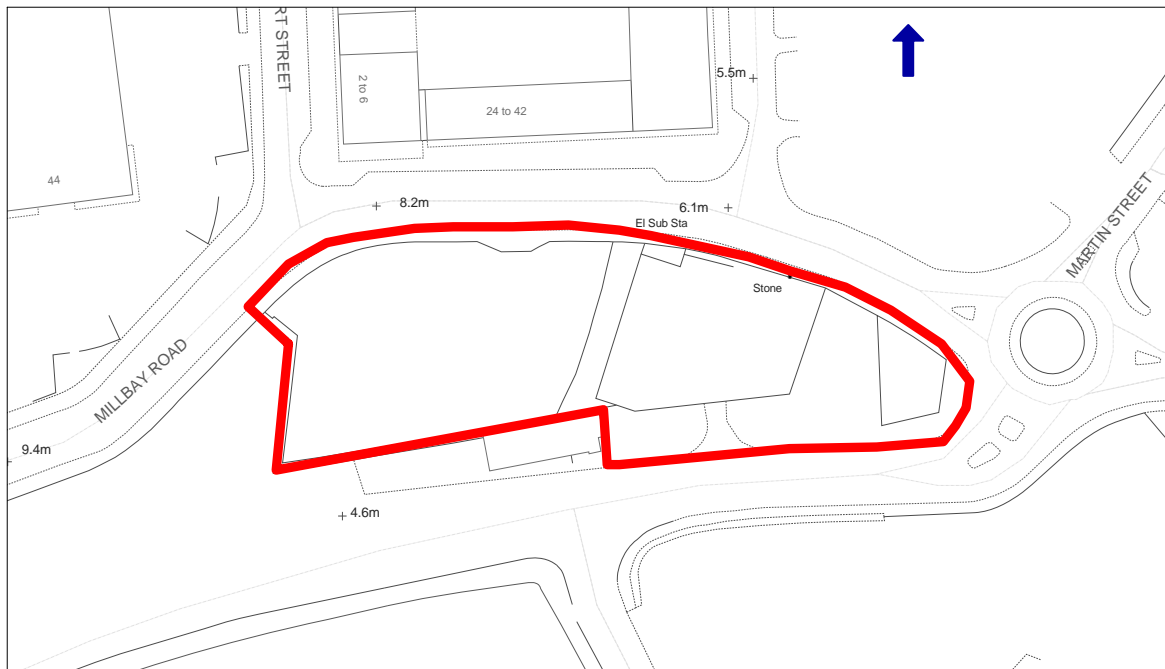
8/13 Week Date: **15/02/2011**

Decision Category: Major Application

Case Officer : Mark Evans

Recommendation: Grant conditionally subject to S106, agreement to be signed by 15th March 2011

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OFFICERS REPORT

Site Description

The application site is a small (approx. 0.45 ha), lozenge shaped, plot sandwiched between Millbay Road, to the north, and the 'Dock Access' Road which serves the continental ferry terminal, to the south. The site is predominantly covered with hardstanding, though there are small sections of overgrown bushes and vegetation. The site is currently vacant and used for car parking. A row of young street trees surrounds the site to the south and east.

Levels fall from north to south across the plot and also from west to east. Associated British Ports (ABP) has an office building on the southern frontage. There are two vehicular entrances: from Millbay Road to the north and from the dock / ferry terminal access road to the south.

The area currently lacks any definitive character. In the wider area some light industrial and commercial uses continue to exist around George Street and Bath Street as vestiges of the old employment land use zoning for the area set out in the Abercrombie Plan. For the most part the commercial uses have been cleared in preparation for redevelopment and are now vacant or underused plots. The exceptions are the developments of 'Cargo' and 'Phoenix Quay', to the North and North West. These two new perimeter blocks pioneer the redevelopment of Millbay with mixed use, mainly high density housing schemes. The southern elevation of Cargo, which contains a row of three storey interlocking town houses, and the 'end' elevations of the flat blocks, face towards the application site on the opposite side of Millbay Road.

Proposal Description

Planning permission is sought for mixed use redevelopment of the site, comprising 48 new dwellings: 14 houses (3x three bed + 11 x four bed) and 34 flats (18 x two bed + 16 x one bed); associated parking (42 car parking spaces) and landscaping together with 370sqm of commercial space (use class A1, A2, A3 and/or B1(a)).

The proposed houses are arranged in two terrace blocks and a pair of semi-detached houses along the western and northern sides of the site. Most of the houses are three storeys, but there are 3 two storey houses strategically placed to facilitate viewing corridors from Cargo. Typically the houses are shown with a long narrow footprint.

The houses all have small rear yards with refuse and cycle storage space where achievable. Eight out of twelve units have integral, dedicated parking spaces within the plot. Amenity space is provided by roof terraces and balconies (townhouses) gardens (townhouses) and balconies (apartments).

The main apartment block, beneath which is situated the ground floor commercial unit, is five storeys high. The connected adjoining apartment block which sits over the basement car parking area is three storeys high onto Millbay Road and four storeys high onto the dock access road.

The proposed materials include extensive use of treated timber cladding, facing brickwork and render. Metal façade panels, painted or powder coated balcony railings and a metal standing seam roof are also incorporated.

Relevant Planning History

06/01533/OUT - A mixed-used development comprising residential development (Use Class C3) of up to 1,232 dwellings, in the form of townhouses and apartments; up to 39 live/work units, maximum of 4,095 sqm; employment use (Use Class B1) up to 40,206 sqm; retail (Use Class A1) up to 9,026 sqm; food and drink (Use Classes A3 & A4) up to 13,824 sqm; hotel use (Use Class C1) up to 9,209 sqm; associated alterations to the Arena retained within Plymouth Pavilions (Use Class D2) up to 10,448 sqm; ground remediation, highway improvements and associated landscaping.' GRANTED conditional permission subject to S106 legal agreement 25th January 2008

10/01882/OUT – Renewal of planning permission (ref. 06/01533/OUT) for a further 3 years for:- A mixed-used development comprising residential development (Use Class C3) of up to 1,232 dwellings, in the form of townhouses and apartments; up to 39 live/work units, maximum of 4,095 sqm; employment use (B1) up to 40,206 sqm; retail (A1) up to 9,026 sqm; food and drink (Use Classes A3 & A4) up to 13,824 sqm; hotel use (C1) up to 9,209 sqm; associated alterations to the Arena retained within Plymouth Pavilions (D2) up to 10,448 sqm; ground remediation, highway improvements and associated landscaping. Currently undetermined

Consultation Responses

Highway Authority

No objections subject to conditions.

Environment Agency

No objections subject to condition.

South West Water

No objections subject to conditions.

Public Protection Service

No objections subject to conditions.

Representations

6 Letters of objection have been received. These can be summarised as follows:

1. Adverse impact on privacy of adjoining residents of a “Cargo” as it appears that the proposed windows, at less than 20m distance away, will look directly into the large, floor to ceiling picture windows of the

- lounges of the existing residents in the Cargo development. It is suggested that if planning permission is to be granted that the developer should be required to supply one-way glass to the existing Cargo development residents in order to protect existing privacy.
2. Concern regarding loss of natural sunlight caused by the height of the buildings.
 3. The height of the buildings is considered to be detrimental to the local built environment and the design does not reflect the stepped design or symmetry of the established form of the Cargo development.
 4. The proposed height is higher than that advised by selling agents of Cargo to purchasers who were advised that the development would not exceed the height of the existing Port office.
 5. Objections to the close proximity of the proposed development to the existing Cargo development contrary to design guidance.
 6. Insufficient car parking for both the residential units and the commercial unit will significantly add to existing parking difficulties in the area resulting in excessive on street car parking.
 7. Query where the current car parking spaces which are used by staff of the adjoining VW motor sales premises will be relocated? It is suggested that a residents parking permit zone and short term parking meters be introduced to the area.
 8. The submitted application form incorrectly states that there are no trees either on the site or adjacent to the site which is not accurate as there are a several trees both on the site and in the immediate vicinity and it is considered to be detrimental to both the visual amenity of the area and the somewhat limited natural environment to remove all these trees. It is suggested that provision should be made to replant trees in the new scheme.
 9. Objection that proposed development will result in a loss of views currently enjoyed from adjoining apartments.

Analysis

The application should be assessed primarily against adopted Local Development Framework Core Strategy. This report therefore has due regard to the following policies: CS01 (Sustainable Linked Communities); CS02 (Design); CS13 (Evening/Night-time Economy Uses); CS18 (Plymouth's Green Space), CS20 (Sustainable Resource Use); CS22 (Pollution); CS28 (Local Transport Considerations); CS32 (Designing Out Crime); CS33 (Community Benefits/Planning Obligations) and CS34 (Planning Application Considerations).

Consideration should also be given to the Millbay and Stonehouse Area Action Plan, PPS1 - Delivering Sustainable Development, PPS3 – Housing, PPG13 – Transport, PPS22 – Renewable Energy, PPS23 – Pollution Control, PPG24 – Noise, adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009) and adopted Planning Obligations Supplementary Planning Document (2010).

The key issues in this case are:

- 1) The principle of developing a mixed use mainly residential scheme on this site (policies CS01, CS13, CS32 and CS34 of the Adopted Core Strategy)
- 2) The design and appearance of the proposed development (Policy CS01, CS02, CS20, CS32 and CS34 of the Adopted Core Strategy)
- 3) Impact upon the amenities of neighbouring properties and uses (Policy CS02 and CS34 of the Core strategy)
- 4) The adequacy of access and parking arrangements and the impact of the development on the highway network (Policy CS01, CS02, CS28, CS32 and CS34 of the Core strategy)

The principle of developing a mixed use mainly residential scheme on this site

Planning Policy Statement 1 (PPS1) sets out the Government's overarching strategy and policy approach for the delivery of sustainable development. One of the broad aims of national policy is to maximise outputs whilst minimising resource use and the example provided in PPS1 is the delivery of higher density residential development on previously developed land, as opposed to lower density green field development.

Protection and enhancement of the environment, both in the rural and urban area, is a key theme running through a number of planning policy statements. Enhancing the environment within which we live is identified as a key objective and paragraph 18 of PPS1 states that "The condition of our surroundings has a direct impact on the quality of life and the conservation and improvement of the natural and built environment brings social and economic benefits for local communities. Planning should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental quality through positive policies on issues such as design, conservation and the provision of public space". In essence, development which makes a positive contribution to the local environment is to be supported through the planning process.

The Local Development Framework Core Strategy deals specifically with the Millbay and Stonehouse area. Paragraph 5.15 of the Core Strategy references the 'Vision for Plymouth' which identifies Millbay as "One of the greatest opportunities for transformation, and thus a key contributor to the future success of Plymouth". The Core Strategy further endorses the important of Millbay by virtue of its waterfront location and its status as a gateway to and from Europe.

The overarching vision for the Millbay/Stonehouse area is to create a vibrant sustainable neighbourhood which should reinforce and capitalise upon the

existing positive attributes delivering a sustainable development which meets the needs for transport and community infrastructure, creates a new office quarter for the city whilst recognising the issues of flood risk and protection of nature conservation interests.

The application site is part of larger area of redevelopment land which extends along the eastern side of the Millbay waterfront and the indicative line of the proposed new Boulevard link towards the Pavilions and Union Street.

The larger area is covered by Proposal MS03 (Land between Western Approach /Union Street and East Quay /Clyde Quay) of the adopted Millbay and Stonehouse Area Action Plan (AAP). That proposal envisages comprehensive redevelopment of the area to create a new neighbourhood which includes; 'a mix of uses that meet the daily needs of the community it serves and also create activities and use that will be used by the wider community.' Outline planning permission was granted 25 Jan 2008, under ref. 06/01533/OUT for '*A mixed-used development comprising residential development (Use Class C3) of up to 1,232 dwellings, in the form of townhouses and apartments; up to 39 live/work units, maximum of 4,095 sqm; employment use (Use Class B1) up to 40,206 sqm; retail (Use Class A1) up to 9,026 sqm; food and drink (Use Classes A3 & A4) up to 13,824 sqm; hotel use (Use Class C1) up to 9,209 sqm; associated alterations to the Arena retained within Plymouth Pavilions (Use Class D2) up to 10,448 sqm; ground remediation, highway improvements and associated landscaping.*'

This outline permission covered the whole area identified in Proposal MS03. That permission has now expired, but is subject of a renewal application (ref. 10/01882/OUT) reported elsewhere on the agenda.

The form and quantum of development proposed in this application is compatible with Proposal MS03 and the outline planning permission objectives in every way, except that it is another 'piecemeal' redevelopment, which like Cargo and Phoenix Quay, is coming forward outside the comprehensive framework. The applicant argues that market conditions have deteriorated considerably since the outline approval and that in order to maintain the momentum of re-development in Millbay in these changed economic circumstances, they need to take advantage of a, time limited, £350k grant subsidy that is currently available and bring forward another stand alone development in Millbay. The applicant further argues that the site is small and self contained which they believe makes it capable of being delivered without jeopardising the comprehensive redevelopment scheme to which they re-affirm their commitment deliver – although over a longer timeframe than originally envisaged.

It is certainly not in the City's interests to see the redevelopment of Millbay stalled and empty plots left vacant and underused for longer than necessary, and the arguments about changed economic circumstances are appreciated. Consideration should be given to the fact that allowing further piecemeal development, of this kind, is not without risks. The long term objectives of delivering the transformational change sought in the Mackay Vision – for

example the delivery of the new Boulevard etc. – become slightly more difficult to deliver with each stand alone waterfront development that is approved. The relatively isolated, and still only part implemented, Millbay Marina Village further to the south east, stands testament that good town planning involves more than simply allowing prime (yet isolated) sites with waterfront views to be developed.

Given the relatively small self contained nature of this site, the changed economic circumstances and the pledge of continued commitment to deliver the redevelopment of the wider area, on balance, it is recommended that the Planning Committee support this proposal as a stand alone site.

The design and appearance of the proposed development

Planning Policy Statement 1 (PPS1) sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 establishes the Government's firm commitment to creating sustainable communities. It emphasises that good planning is critical to realising this commitment through delivering this objective. Guidance on quality of design is clear: *Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning'* (para 33)

Good design should contribute positively to making places better for people (para 34) Thus planning authorities should plan positively to secure high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted: *High quality design ensures usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is not just about the architecture of individual buildings, but also about the functionality and impact of the development on the overall character, quality and sustainability of an area including resources efficiency (for example energy consumption) There should be no acceptance of ill-conceived designs which do not contribute positively to making places better for people.*

The scale, design and massing of the proposed development is considered to be in keeping with development in the locality and will contribute to the enhancement of the appearance and character of the site and wider area.

Concerns regarding the extensive use of brick within the development have been expressed by your officers. It is considered that brick is not a robust enough material for use in such an exposed marine environment and thus its longevity and ability to maintain a high quality exterior finish is questioned. (There is clear evidence on the adjoining development sites of Phoenix Quay and Cargo development, and on several sites within the city, that the recently constructed brick is already showing signs of precipitation and efflorescence due to the severe marine environment being experienced, to the detriment of

the quality of the appearance and character of the overall buildings.) This issue is currently being reviewed with the applicant and a condition is therefore recommended to enable the proposed external facing materials to be considered further.

It is acknowledged that considerable effort has been made during the design process to reduce the impact of the new development upon the existing apartments within the recently constructed “Cargo” development, including the provision of View ‘corridors’ to ensure that the primary habitable rooms on mid floors of Cargo are not completely obscured from waterfront view, and also by restricting the height of the development immediately in front of Cargo to ensure that the top floor balconies of Cargo retain views across to Plymouth Sound.

It is noted that whilst the submitted site plans correctly indicated a number of existing trees on the site, the originally submitted application form incorrectly stated that no trees existed either on the site or adjacent to the site. This section of the form has since been corrected by the applicant. Concerns regarding the loss of the trees on site are noted. In the interests of the visual amenity of the area and the somewhat limited natural environment, it is considered appropriate that provision should be made to replant trees in the new scheme. An appropriate condition is therefore recommended to secure the delivery of additional tree planting within areas of public realm around the development in accordance with the requirements of policy CS18 (Plymouth’s Green Space)

The development therefore accords with adopted policies CS01, CS02, CS32 and CS34, the Council’s adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009) and Government guidance contained in PPS1.

Impact upon the amenities of neighbouring properties and uses

It is acknowledged that due to its siting, height and massing, the development will have an impact upon the outlook currently enjoyed by neighbouring and adjoining properties. However, it is considered that the development has been carefully designed so as to minimise this impact to a satisfactory level including the provision of View ‘corridors’ to ensure that the primary habitable rooms on mid floors of Cargo are not completely obscured from waterfront view, and also by restricting the height of the development immediately in front of Cargo to ensure that the top floor balconies of Cargo maintain views across to Plymouth Sound.

Third party representations expressed by residents of the adjoining residential development of ‘Cargo’ (who currently enjoy unimpeded views into Millbay), raise concerns about the height of the proposed houses and the resultant impact on their private views. Concern regarding the impact of a development on private views and/or property values is not a material planning consideration.

Concerns that the relationship of the development to the adjoining Cargo building will result in a degree of loss of privacy are acknowledged, however, with a minimum separation distance of approximately 21m between the two developments, this impact is not considered to be significant taking into account the context of the site within this urban city location. Similarly, the impact of the proposed development in terms of overshadowing and loss of sunlight is not considered to be so significant to warrant a refusal of the application. This conclusion is fully supported by the guidance contained within the adopted Development Guidelines Supplementary Planning Document, which although advising a minimum distance of 28m between habitable room windows directly facing one another for three storey dwellings, acknowledges that the levels of privacy that can be expected within such an inner city urban neighbourhood can be less.

In conclusion, the height and relationship of the proposed development to the existing development of Cargo is not considered to be excessive in relation to an urban street scene. A material planning consideration is the fact that the principle of residential development on this site has long been established as part of the master plan – identified and consulted upon in the Millbay and Stonehouse Area Action Plan and previous outline planning permission.

On balance, taking into account the siting and design of the buildings in relationship to the neighbouring properties and city centre location, the impact of the development upon neighbouring residents is considered to be satisfactory and complies with policy CS34 (Planning Application Considerations).

The adequacy of access and parking arrangements and the impact of the development on the highway network

The Highway Authority does not object to the proposed development.

Although the close proximity of the development site to the city centre and public transport network is acknowledged as being a relatively sustainable location, the Highway Authority has expressed concerns regarding the reduced car parking levels currently proposed (Currently 42 spaces for 48 units).

Whilst it is noted that it is intended that new and improved parking facilities will be developed in the locality in the future as part of the wider redevelopment of the area under the parameters of the Millbay Masterplan, there is a requirement for consideration to be given to providing a temporary car parking area within the regeneration area which could be utilised by residents of the proposed development in the short-term.

On this basis, a clause is recommended within the Section 106 Obligation to secure the provision of a temporary car parking area on an adjoining site for a minimum of 16 cars. The details and control of the management of this temporary car park should be required to be submitted and approved in writing by the Local planning Authority. Should the area in which the

temporary car park come forward for re-development, the developer will be required to provide an alternative temporary car parking location until such times as a more permanent car parking solution is provided. Such an obligation is fully in accordance with PPG13 and Circular 05/2005.

As part of the application submission, a new lay-by for loading and unloading of deliveries for the retail unit on Millbay Road will also be provided. This is supported by the Highway Authority.

The proposed secure cycle storage is considered to be sufficient and the ongoing use of this space will be secured by condition.

Concerns regarding the apparent lack of formal car parking restrictions in the locality are acknowledged. A review of on street car parking controls within the city is currently in the process of being undertaken by the Highway Authority, and it is accepted that the introduction of an increased level of parking control in the area is likely to be required. This may include the introduction of parking meters and/or resident parking permit zones in the near future.

A £60,000 financial contribution towards local transport and access improvements has been agreed as a negotiated element of the Development Tariff and is considered to be necessary to make the development acceptable. This is required to fund the purchase of a free travel pass (any zone) for each household for a minimum of 12 months in addition to funding Travel Plan initiatives that will assist in securing a modal shift away from private car use to more sustainable modes of transport (setting up a dedicated car share area within Car Share Devon, Cycle Purchase Scheme etc).

On this basis, the development is considered to have an acceptable impact upon the highway network and therefore accords with adopted Core Strategy Policies CS01, CS02, CS28 and CS34, together with Government advice contained in PPS1 and PPG13.

Sustainable Resource Use

Adopted policy CS20 requires that the development incorporates on-site renewable energy production equipment to off-set at least 15% of predicted carbon emissions for the period 2010-2016.

Whilst the applicant argues that full compliance with this policy is currently not achievable due to the restricted economic viability of the development, it is considered appropriate to investigate this matter further to ensure that all viable options have been considered.

In accordance with this, a condition is recommended to ensure that the potential for the development to accord more closely with the requirements of Policy CS20 and Government advice contained within PPS22 is investigated further.

Other Matters

Third party concerns alleging that selling agents of Cargo misled purchasers of the adjoining Cargo development regarding the potential height of the new development, (it is alleged that selling agents advised that the development would not exceed the height of the existing Port office), is not a material planning consideration and is entirely a civil matter between residents of the Cargo development and the developer's selling agents.

Human Rights Act

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.

Community Benefits

(a) Affordable Housing

Core Strategy Policy CS15 promotes the delivery of affordable housing and advises that on developments of 15 dwellings or more, 30% of the total number of dwellings proposed should be affordable homes (subject to viability). It advises that "Off-site provision or commuted payments for affordable housing will be acceptable provided it is robustly justified and contributes to the creation of balanced, mixed and sustainable communities".

In order to set the proposed development in the context of the current economic climate, it is important to note that the Council has formally agreed the adoption of a series of phased-in temporary concessions to be granted for developments in relation to the Plymouth Development Tariff. It has been agreed that as part of these measures, for residential development of 15 homes or more, a reduced affordable housing requirement of up to 50% of the full requirement may be considered if the case is proven through an open book viability appraisal that the development is unviable at the higher level. Similarly 50% of the tariff will be charged for the development of previously developed brown-field land.

Despite the above-mentioned concessions, it is positive to note that the developer is still proposing 25% affordable housing on site and this maintains the overall headline figure agreed in the master-plan outline approval.

This delivery of 25% affordable housing will ensure that the proposal makes an appropriate contribution towards the delivery of Millbay as a sustainable neighbourhood. However, behind the headline figure the position is not quite so positive. Viability is tight and the applicant has provided some evidence to support an argument that only 25% affordable housing can be achieved if all the affordable units are clustered among the lower value, mostly north facing,

single aspect, flats. Occupants of the affordable units would also have fewer car parking spaces. The viability evidence has been challenged, and the applicants have agreed to a S106 claw back clause which allows two of the designated affordable flats to be swapped for two of the proposed three bedroom houses in the event that final development profit levels are higher than currently anticipated. The applicant maintains that to allow more would jeopardise delivery of the scheme.

Accepting this would mean that the affordable units do not fully reflect the type and size of the development as a whole – part of the Core Strategy Policy CS15 (Overall Housing Provision) consideration. This weakens slightly the Proposal MS03 objective of providing affordable accommodation for families, and makes it marginally more difficult to achieve the balanced sustainable neighbourhood sought. However in practical terms this is not much more adverse than the current Market Recovery Scheme whose provisions sometimes reduce the overall affordable housing requirements to 15% on the basis of viability. It is not considered to constitute a reason for refusal.

It is therefore recommended that the development be supported with a “clawback” clause incorporated within the S106 Obligation in order to ensure, should the final development profit exceed 15%, that two of the three bed town houses be developed for affordable housing in lieu of two of the affordable apartments.

(b) Other Community Infrastructure.

With the exception of the negotiated Highway contribution of £60,000, it has been demonstrated through the submission of a viability appraisal that the development cannot afford to pay 50% of the Development Tariff (£182,919) towards strategic and local infrastructure.

Further negotiation has taken place with the applicant to review potential alternative measures for how the impact of the development on Local Infrastructure (Schools, Playing Pitches, Green Space, Children's Play Space and Libraries) and Strategic Infrastructure (Transport, Green Space, Sports Facilities, Public Realm and European Marine Sites) might otherwise be mitigated. The conclusion of this negotiation is that unless the development profits exceed 20%, the applicant will not be able to afford to mitigate the impact of the development on local and strategic infrastructure.

It is therefore proposed that no further payment is made to the Plymouth Development Tariff unless the profit level generated by the development reaches or exceeds 20%.

On this basis the development fails to make adequate provision to mitigate the adverse community infrastructure impacts of the development as required by adopted Core Strategy policy CS01 and CS33, nor can it be argued that it supports the development of a sustainable linked community in every aspect.

In accordance with policy CS01 however, the development will improve the sustainability of the individual communities and neighbourhoods in the locality

by delivering development of an appropriate type, form, scale, mix and density in relation to its location; Contributing to the promotion of a positive sense of place and identity, contributing to the regeneration of the area and the creation of a well connected, accessible and safe community.

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

It is recommended that a “clawback” clause be incorporated within the S106 Obligation in order to ensure, should the final development profit exceed 20%, that this additional profit is paid back to the Council to increase the development contribution towards the delivery of local and strategic infrastructure, up to the total financial contribution that would have otherwise been paid under the full Development Tariff, in this case £365,838.

(c) Community Benefits – Conclusions

The weaknesses in the scheme’s deliverable community benefits (described above) should be balanced against the wider, significant benefits of achieving the delivery of this multi million pound, high quality development in a previously run down area of the city that has been identified as a major opportunity for regeneration within the adopted Millbay and Stonehouse Area Action Plan. This will most importantly, continue the momentum of the regeneration of the immediate area and wider environs of Millbay in accordance with the adopted Area Action Plan policies, despite the current severity of the economic climate.

The development is therefore considered to be acceptable. Such development will in turn send out positive messages to potential investors, which could have a knock-on effect in attracting much needed future investment to the Millbay area.

The challenge now is to ensure that the infrastructure for the wider area is brought forward in a coordinated manner to ensure that the Area Action Plan aspirations are fully acknowledged and delivered.

Equalities & Diversities issues

The redevelopment of this prominent site at the entrance to Millbay and the city’s ferry port will further contribute to the regeneration of the area and provides 12 units of much needed affordable accommodation in the area.

At least 20% of the units will be designed to Lifetime Homes criteria and therefore they will incorporate a design that maximises utility, independence and quality of life, while not compromising other design issues such as aesthetics or cost effectiveness. Housing that is designed to the Lifetime Homes Standard will be convenient for most occupants, including some (but

not all) wheelchair users and disabled visitors, without the necessity for substantial alterations.

The benefits to all groups will therefore be positive as it will provide accessible residential accommodation close to the city centre.

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

Section 106 Obligations

A S106 Obligation is required to ensure the development will deliver the following Heads of Terms which have been tested against Regulation 122 of the Community Infrastructure Levy Regulations 2010:

1. Development to commence within 2 years;
2. £60,000 financial contribution as a Negotiated Element towards local sustainable transport measures and access improvements such as funding the purchase of a free travel pass (any zone) for each household for a minimum of 12 months, in addition to funding Travel Plan initiatives that will assist in securing a modal shift away from private car use to more sustainable modes of transport (setting up a dedicated car share area within Car Share Devon, Cycle Purchase Scheme etc), payable upon commencement of development.
3. 25% affordable housing (6 x 1-bed and 6 x 2-bed units);
4. Within one year of the completion of the development ,or sale, rent or occupation of the 46th residential unit, that the developer commissions a post scheme development appraisal to be submitted to the Local Planning Authority;
5. 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 two of the three bed town houses be developed for affordable housing in lieu of two of the affordable apartments. Should the profit levels exceed 20%, that this additional profit be paid back to the Council to increase the development contribution towards the delivery of community infrastructure in line with adopted planning policy up to the maximum amount that would have otherwise been required under the full Plymouth Development Tariff, in this case £365,838. (Note that this figure is exclusive of the £60,000 financial contribution already paid towards the negotiated element).
6. Prior to occupation of the residential units, a temporary car parking area shall be provided on an adjoining site for a minimum of 16 vehicles, the details and control of the management of this car parking area to be submitted and approved by the Local Planning Authority. Should the area in which the temporary car park is located come forward for re-development, the developer will be required to provide an alternative temporary car parking location until such times as a more permanent car parking solution is provided.

7. A Planning Obligations Management Fee of £1,232. This management fee will be used to meet the Council's costs in administering and monitoring implementation of the Section 106 Agreement;

Conclusions

There is a general frustration that the recession has considerably slowed the delivery of the McKay Vision and the transformational change of Millbay which is promoted through the vision and objectives of the Area Action Plan.

Architectural successes at Cargo, and to a lesser extent Phoenix Quay, have yet to be replicated elsewhere within Millbay.

Approval of this proposal involves accepting compromises. There's an 'in principle' compromise in accepting another piecemeal development. Behind the welcome headline 25% figure the proposed affordable units are compromised, they do not fully reflect the type and size of the development as a whole, or have the same level of parking. There's a compromise over the level off site community infrastructure benefit, the tariff is below even that of the Market Recovery scheme (although this is partly offset by the 25% level of affordable housing).

Nevertheless the proposed development does satisfy a key wider objective for maintaining development momentum in Millbay in difficult economic circumstances without significantly undermining long term planning objectives.

On this basis it is recommended that conditional approval be granted subject to the satisfactory completion of the Section 106 Obligation. Delegated Authority is sought to refuse the application if the S106 Obligation is not signed by the 22nd of March 2011.

Recommendation

In respect of the application dated **21/12/2010** and the submitted drawings, **GA-001; GA-002; GA-003; GA-010 Rev A; GA-011 Rev A; GA-012 Rev A; GA-013 Rev A; GA-014 Rev A; GA-015 Rev A; GA-020; GA-021; GA-022; GA-023; GA-024; GA-025; GA-026; GA-027; GA-028; GA-031 Rev A; G-032 Rev A; GA-033 Rev A; GA-034; GA-035 Rev A; GA-036 Rev A; GA-037 Rev A; GA-038 Rev A; GA-39; GA-040** , it is recommended to: **Grant conditionally subject to S106 Obligation**

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.

DEVELOPMENT IN ACCORDANCE WITH APPROVED PLAN NUMBERS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans Location Plan (GA-001); Existing Site Plan (GA-002); Site Ownership (GA-003); Level 1 Layout Plan (GA-010 Rev A); Level 2 Layout Plan (GA-011 Rev A); Level 3 Layout Plan (GA-012 Rev A); Level 4 Layout Plan (GA-013 Rev A); Level 5 Layout Plan (GA-014 Rev A); Roof Level Layout Plan (GA-015 Rev A); Level 1 Plan (East) (GA-020); Level 2 Plan (West) (GA-021); Level 2 Plan (East) (GA-022); Level 3 Plan (West)(GA-023); Level 3 Plan (East) (GA-024); level 4 Plan (West) (GA-025); Level 4 Plan (East) (GA-026); Level 5 Plan (West) (GA-027); Level 5 Plan (East) (GA-028); North Elevation (GA-031 Rev A); South Elevation (G-032 Rev A); East & West Elevations (GA-033 Rev A); Section AA (GA-034) Section BB/CC(GA-035 Rev A); Section DD/EE (GA-036 Rev A); Section FF/GG/HH(GA-037 Rev A); Section JJ(GA-038 Rev A); Detailed Elevations – Houses (GA-39); Detailed Elevations (GA-040)

Reason: To ensure that the development accords strictly with the submitted plans hereby approved in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy.

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.

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.

LAND QUALITY

(4) 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 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 and 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 Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

ACCESS (5)

(5) Before any other works are commenced, an adequate road access for contractors with a proper standard of visibility shall be formed to the satisfaction of the Local Planning Authority and connected to the adjacent highway in a position and a manner to be agreed with the Local Planning Authority.

Reason:

To ensure an adequate road access at an early stage in the development in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

STREET DETAILS

(6) Development shall not begin until details of the design, layout, levels, gradients, materials and method of construction and drainage of all roads and footways forming part of the development have been submitted to and approved in writing by the Local Planning Authority. No unit shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved details.

Reason:

To provide a road and footpath pattern that secures a safe and convenient environment and to a satisfactory standard in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

DETAILS OF NEW JUNCTION

(7) Development shall not begin until details of the junction between the proposed service road and the highway have been approved in writing by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason:

To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

FURTHER DETAILS REQUIRED

(8) Notwithstanding the details submitted, unless otherwise agreed previously with the Local Planning Authority (LPA), no work shall commence until the following details have been submitted to and agreed in writing by the LPA:

- (i) Details of the design, method of construction and finish of the window system including any spandrel panels to be used, and details of the design and method of construction of the windows/shopfronts to the ground floor commercial unit.
- (ii) Details of the depth of reveal between the different external materials and to the inset window openings.
- (iii) Details of the design, materials and finish of the proposed balconies and including all balustrades;
- (iv) Details of the design of any external building lighting proposed;
- (v) Details of the proposed siting, design and external materials of any roof plant, services or lift rooms and any wall or roof vents, ducts, pipes, extracts, window cleaning apparatus or other accretions to the roof or elevations;
- (vi) Details of the design of the treatment of the junctions between the metal cladding, timber cladding and render cladding.
- (v) Details of the proposed design, materials and finishes to the external gates and basement parking area access gate/doors.
- (vi) Details of the design, materials and finish of the louvre systems.
- (vii) Details of the materials and finish of the soffits to the overhang above the commercial unit and balconies.
- (viii) Details of the design, finish and colour of the proposed awnings.

Such agreed details shall be strictly adhered to during the course of development and thereafter so maintained.

Reason:

To enable the LPA to consider the above details in the interests of the appearance and character of the development and locality, in accordance with Policy CS01, CS02, CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

EXTERNAL MATERIALS

(9) Notwithstanding the submitted details including the proposed extensive use of brick on the external facades of the development, no development shall take place until details (including 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.

SURFACING MATERIALS

(10) No development shall take place until details of all surfacing materials to be used 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.

LANDSCAPE DESIGN PROPOSALS

(11) No development shall take place until full details of both hard and soft landscape works and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include .

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LANDSCAPE WORKS IMPLEMENTATION

(12) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

PROVISION FOR TREE PLANTING

(13) Unless otherwise agreed previously in writing with the Local Planning Authority and notwithstanding the submitted drawings, prior to any occupation of the development a minimum of 8 trees shall have been planted within the areas of public realm around the site, prioritising the areas to the south and east of the commercial unit, in accordance with a tree planting schedule which shall have been submitted to and agreed in writing by the Local Planning Authority. The tree planting schedule shall include full details of proposed tree planting and the proposed times of planting. All tree planting shall be carried out in accordance with those details and at those times.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

TREE REPLACEMENT

(14) If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 are subsequently properly maintained, if necessary by replacement.

LANDSCAPE MANAGEMENT PLAN

(15) A landscape management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

REFUSE PROVISION

(16) Before the development hereby permitted commences, details of the siting and form of bins for disposal of refuse shall be provided on site shall be submitted to and approved in writing by the Local Planning Authority. 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 Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LIFETIME HOMES

(17) Notwithstanding the submitted drawings, unless otherwise previously agreed in writing with the Local Planning Authority, at least 20% of the residential units hereby permitted shall be first constructed and subsequently maintained to Lifetime Homes standards in accordance with details (including details of the precise siting of the specific units) which shall have been previously submitted to and agreed in writing by the Local Planning Authority. Unless otherwise agreed previously in writing with the Local Planning Authority, the approved details shall be fully implemented prior to completion of the development or occupation of the 20th residential unit (whichever is the sooner) and thereafter so maintained and retained.

Reason:

In order to deliver an adequate level of housing that is designed to the Lifetime Homes Standard that will be convenient for most occupants, including some (but not all) wheelchair users and disabled visitors, without the necessity for substantial alterations in accordance with adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007 Objective 10, Policy CS15, and relevant Central Government advice.

RESTRICTIONS ON PERMITTED DEVELOPMENT

(18) 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, B, C, D or E of Part 1 of the Schedule to that Order shall be carried out unless, upon application, planning permission is granted for the development concerned.

Reason:

In order to control future changes to the appearance of the buildings and ensure that this high density urban area is not overdeveloped, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

SUSTAINABILITY

(19) Unless otherwise agreed previously in writing with the Local Planning Authority, prior to any development taking place, the applicant shall provide to the Local Planning Authority a report for approval identifying how either;

(a) a minimum of 15% of the total carbon emissions for which the development is responsible will be reduced through the use of renewable energy equipment, combined heat and power and energy efficiency measures outlined within the applicant's Energy Statement.

Or

(b) the installation of a low carbon technology such as Combined Heat and Power (CHP) could achieve greater than 15% reduction in total carbon emissions, and facilitate the roll out of a wider approach to district energy as part of the Millbay Master Plan area. To understand how this CHP solution would contribute to a Millbay District Energy Network the Local Planning Authority would need this report to (i) consider quantum's & phrasings of development proposed as part of Millbay master plan, (ii) energy characteristics of these developments, (iii) the options for supplying these energy demands in line with Government's trajectory for low carbon building standards as set out in Building a Greener Future.

Unless otherwise agreed in writing, the approved renewable energy measures, or low carbon measures shall be provided in accordance with these details prior to the first occupation of the development and thereafter retained for so long as the development remains in existence.

Reason:

To ensure that the development incorporates an adequate level of renewable energy measures, or low carbon measures to off-set at least 15% of predicted carbon emissions for the period up to 2016 in accordance with Policy CS20 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and relevant Central Government guidance contained within PPS22.

NOISE

(20) Unless otherwise agreed previously in writing with the Local Planning Authority, the development shall be constructed in accordance with BS8233:1999 so as to provide sound insulation against externally generated noise. The good room criteria shall be applied, meaning there must be no more than 30 dB LAeq for communal/living rooms (0700 to 2300 daytime) and 30 dB LAeq for bedrooms (2300 to 0700 night-time), with windows shut and other means of ventilation provided. Levels of 45 dB LAf.max shall not be exceeded in bedrooms (2300 to 0700 night-time).

Prior to any occupation of the buildings, the applicant/developer should submit, for written approval by the Local Planning Authority, a verification report proving that the buildings meet the criteria.

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of

noise disturbance generated by traffic or community noise to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

CAR PARKING PROVISION

(21) Unless otherwise agreed previously in writing with the Local Planning Authority, the development shall not be occupied until space has been laid out within the site in accordance with the Approved plan for a maximum of 42 cars to be parked (and for the loading and unloading of vehicles)(and for vehicles to turn so that they may enter and leave the site in forward gear).

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

(22) No dwelling shall be occupied until space has been laid out within the site in accordance with the approved plan for a minimum of 48 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

(23)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

(24) 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 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.

USE OF LOADING AREAS

(25) The land indicated on the approved plans for the loading and unloading of vehicles shall not be used for any other purposes unless an alternative and equivalent area of land within the curtilage of the site is provided for loading and unloading with the prior consent in writing of the Local Planning Authority.

Reason:

To ensure that space is available at all times to enable such vehicles to be loaded and unloaded off the public highway so as to avoid:- a. damage to amenity; b. prejudice to public safety and convenience, and c. 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.

PRESERVATION OF SIGHT LINES

(26) No structure, erection or other obstruction exceeding one metre in height shall be placed, and no vegetation shall be allowed to grow above that height, within the approved sight lines to the site access at any time.

Reason:

To preserve adequate visibility for drivers of vehicles at the road junction in the interests of public safety in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

TRAVEL PLAN

(27) Unless otherwise agreed previously in writing with the Local Planning Authority, the development hereby permitted shall not be occupied until a Residential and Staff Travel Plan (TP) has been submitted to and approved in writing by the Local Planning Authority. The said TP shall seek to encourage residents and staff of the retail/commercial unit to use modes of transport other than the private car to get to and from the premises. It shall also include measures to control the use of the permitted car parking areas; arrangements for monitoring the use of provisions available through the operation of the TP; and the name, position and contact telephone number of the person responsible for its implementation. From the date of occupation the occupier shall operate the approved TP.

Reason:

In the opinion of the Local Planning Authority, such measures need to be taken in order to reduce reliance on the use of private cars (particularly single occupancy journeys) and to assist in the promotion of more sustainable travel choices in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

OPENING HOURS

(28) Unless otherwise agreed previously in writing with the Local Planning Authority, the commercial (A3) / retail (A1) use hereby permitted shall not be open to customers outside the following times: 0700 - 2300 hours Mondays to

Saturdays inclusive and 1000 - 2200 hours on Sundays and Bank or Public Holidays.

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

COMMERCIAL/RETAIL WINDOW DISPLAYS

(29) Unless otherwise previously agreed in writing with the Local Planning Authority, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) and Class C of Part 2 of Schedule 2 to that order, the ground floor commercial unit Windows/glazed area(s) hereby permitted shall remain as active windows, unless otherwise agreed in writing by the Local Planning Authority.

For the avoidance of doubt at least 75% of the ground floor commercial unit display windows shall be constructed so as to permit open views into the commercial unit with no more than 25% of the total display window area being obscured in whole or in part by walling, screening, obscure glazing or other such similar fixed or applied screening.

Reason:

In order to maximise the extent of visibly active ground floor uses in the interests of the visual amenity, appearance and character of the building and locality and in accordance with adopted Core Strategy policies CS01, CS02, CS34 of the Plymouth Local Development Framework Core Strategy (2006 - 2021) 2007 and relevant Government advice contained in PPS1.

MECHANICAL EXTRACTION VENTILATION DETAILS

(30) Prior to the installation of any mechanical extract ventilation system to any or all of the commercial units the Local Planning Authority (LPA) must be provided with plans and information in respect of the equipment, which must be approved in writing by the LPA, prior to the installation of any such equipment.

The information provided should include details of methods to reduce or eliminate cooking smells and should include confirmation of any odour control methods proposed for use in conjunction with any proposed system, i.e., filtration systems, odour neutralising systems, etc.

The information should also include details of methods to reduce any noise caused by the operation of any proposed ventilation system. The noise emanating from equipment (LAeqT) should not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the facade of the nearest residential property.

Reason: To protect the residential and general amenity of the area from noise and odour emanating from the operation of any mechanical extract ventilation system and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

COMMERCIAL DELIVERIES RESTRICTION

(31) Unless otherwise agreed previously in writing with the Local Planning Authority, all commercial deliveries to the ground floor commercial/retail units shall be made within the following hours Monday - Sunday 8am-6pm.

Reason:

To protect existing and proposed residents from potentially noisy activity outside reasonable hours in accordance with policy CS13, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007

AMENDMENTS TO TRAFFIC REGULATION ORDERS

(32) Unless otherwise agreed previously in writing with the Local Planning Authority, no occupation of the ground floor retail/commercial unit shall take place until the applicant has sought to amend any existing Traffic Regulation Orders (TRO) in order to provide a loading/unloading bay on Millbay Road as shown on the submitted drawings. The mechanism to secure the amendment to the TRO shall have been previously submitted to and agreed in writing by the Local Planning Authority.

Reason:

To ensure that adequate loading/unloading facilities are provided for the ground floor retail unit that front onto Millbay Road in the interests of highway safety in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - EXCLUSION FROM RESIDENTS PERMIT PARKING SCHEME

(1) The applicant should be aware that the development lies within a resident parking permit scheme which is currently oversubscribed. As such the development will be excluded from obtaining permits, visitor tickets and business permits for use within the scheme.

INFORMATIVE - CODE OF CONSTRUCTION

(2) 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, hours of crushing and piling operations, control of mud on road, control of dust 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. All sensitive properties surrounding the site boundary should be notified in writing of the nature and duration of works to be undertaken and the name and address of a responsible person, to whom an enquiry/complaint should be directed.

INFORMATIVE: SECTION 278 AGREEMENT HIGHWAYS ACT 1980

(3) The applicant is advised that the proposal includes works within a existing highway. As such, prior to any works commencing on the highway, the applicant must enter into a Section 278 agreement with the Highway Authority.

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 appearance and character of the area, the impact upon neighbouring properties, the impact 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 (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

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

CS07 - Plymouth Retail Hierarchy

CS19 - Wildlife

CS20 - Resource Use

CS21 - Flood Risk

CS05 - Development of Existing Sites

CS01 - Sustainable Linked Communities

CS02 - Design

CS04 - Future Employment Provision
CS15 - Housing Provision
PPS25 - Development and Flood Risk
MS03 - Western Approach/ Union Street and East Quay
PPS4 - Economic Growth