

PLANNING APPLICATION REPORT



ITEM: 14

Application Number: 11/00804/FUL

Applicant: AXA P&C

Description of Application: Erection of a new retail unit attached to Block A, the removal of the first three bays and side extension to Block B, installation of a new front elevation, erection of a mezzanine floor, relocation of external sales area and associated car parking and landscaping alterations, (net increase 2,449 Sqm)

Type of Application: Full Application

Site Address: FRIARY RETAIL PARK, EXETER STREET PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 20/06/2011

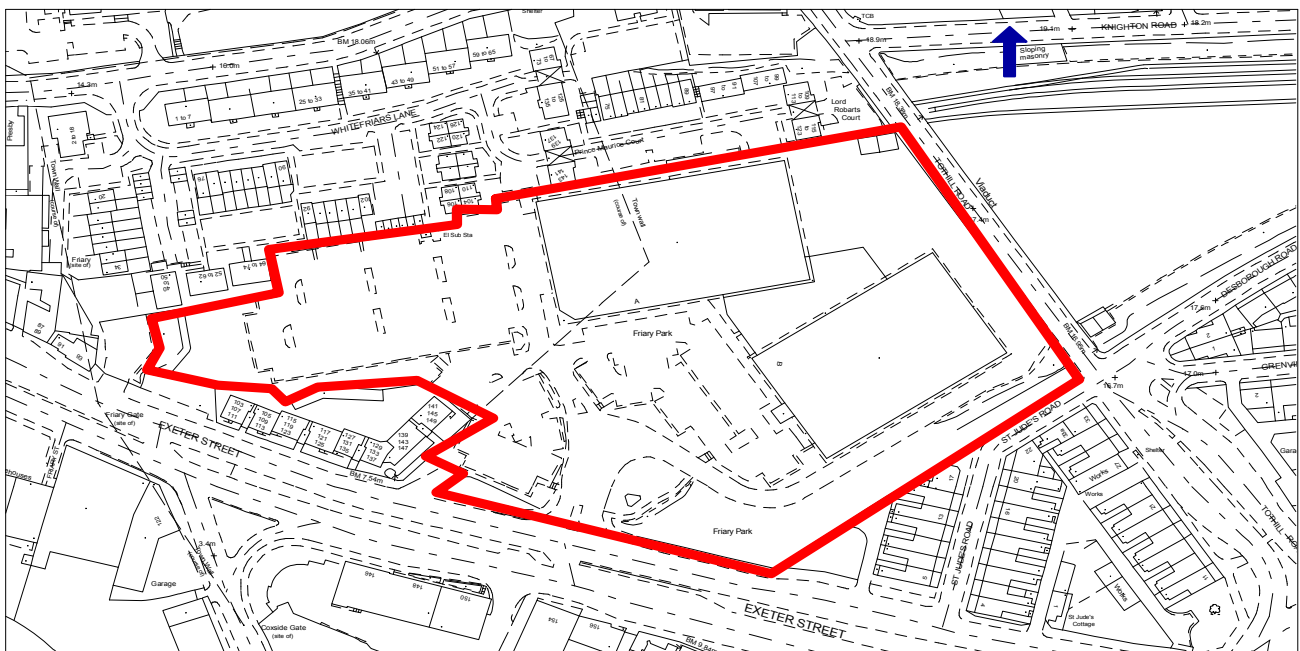
8/13 Week Date: 19/09/2011

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 3,458 square metres of new floor space comprising a new build 660sqm extension to block A (Currently occupied by Dunelm and a pet shop), a 349sqm extension to the side 2,499sqm mezzanine level (shops tradable area) within existing building of block B (Currently occupied by Wicks) together with the removal of 1,009sqm of demolition and reconfiguration of block B.

The extension to block A is shown on its western side into an area that is currently used for car parking. It is shown flush with the front of the building, but it would not be as deep. In terms of design it would appear as a modern, industrial shed type structure, similar in appearance to the existing and be capable of being occupied by a separate retailer. The part of the proposal would involve the loss of 23 parking spaces, reducing the overall number of spaces across the site from 341 to 318 (within these numbers is an increase in the number of disability spaces: from 10 to 18)

The other part of the application involves the reconfiguration of block B. The front three bays of the existing building are shown removed, a side extension added – resulting in a net increase of 349sqm - and an internal mezzanine floor Net (additional gross internal; floor space 2,449sqm).

A Planning and retail assessment; Flood risk assessment; Design & access statement and Transport assessment have been submitted to accompany the application.

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.
- 10/01160/FUL Erection of 2,449 square metres mezzanine level (shops tradable area) within existing building GRANTED CONDITIONALLY 22 Oct 2010

Consultation Responses

Highway Authority – The applicant has submitted a Transport Assessment in support of the application.

Further views will be reported

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 not resulted in receipt any letter of representation.

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 application proposal would consolidate and extend the existing Friary retail park and is, on the face of it, contrary to Policy CS07 and Proposal SH05, Friary Park of

the Sutton Harbour Area Action Plan (AAP). Previously, in connection with 10/01160/FUL, it was accepted that the existence of a Certificate of Lawful Development for similar quantum of development acted as a significant 'fallback' position in any assessment – it was not considered that there are sufficient grounds to withhold planning permission. The applicants are now seeking to push the logic of that interpretation further. Essentially, in this proposal, the net figure retail floor space is not increased over and beyond the existing plus previously approved mezzanine, but its distribution and configuration across the retail park is different. Instead of being provided as mezzanine 660sqm is a new retail unit and 349sqm is ground floor trading space.

The issue is what demonstrable harm arises from allowing the proposal. The Proposal SH05 commitment in the AAP remains in place, until 2021, but currently there is no delivery mechanism. The proposed development does not preclude future comprehensive redevelopment of the retail park.

The nature of the retailers operating from the Friary Retail Park, 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 prevent sale of food products. The nature of the retailer in the proposed new unit is not known, but extension of the condition to prevent food sales is considered appropriate.

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 limited. 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

The increase in the number of parking spaces suitable for use by people with disabilities is welcome.

Conclusions

The proposal frustrates the implementation of Proposal SH05 in its objective to secure the closure of the existing Friary Retail Park and mixed use redevelopment, but, in the absence of an effective delivery mechanism, the case for refusal in terms of demonstrable harm is not strong.

Conditional restrictions on sales, opening hours and delivery times, similar to those imposed on the original appeal approval, are considered to be necessary safeguard to ensure that the proposal does not have a major impact upon the city's existing retail hierarchy or attract excessive vehicle movements into the retail park.

Recommendation

In respect of the application dated **20/06/2011** and the submitted drawings I0752/TP/01Rev-; I0752/TP/02Rev-; I0752/TP/03Rev-; I0752/TP/04Rev-; I0752/TP/05Rev-; I0752/TP/06Rev-; I0752/TP/07Rev-; I0752/TP/08Rev-; I0752/TP/09Rev-; I0752/TP/10Rev-; I0752/TP/11Rev-; I0752/TP/12Rev- & I0752/TP/20, 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.

IN ACCORDANCE WITH APPROVED PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: I0/0572-TPI01 & I0752-HP001 – A.

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.

RESTRICTION ON SALES

(3) The whole premises, both the existing floor space and the proposed, shall not be used for the sale of food other than confectionary, intended to be consumed off the premises.

Reason:

To ensure that the proposed development does not adversely impact on traffic movement/ parking or the vitality of the city centre in accordance with Policies CS07 and CS28 of the Adopted Core Strategy.

RESTRICTION ON OPENING HOURS

(4) The whole premises, both the existing floor space and the proposed, shall not be open for the sale of goods between 20.00 hours and 08.00 hours each day.

Reason:

In order to ensure that disturbance to local residents is minimised in accordance with policies CS22 and CS34 of the adopted core strategy.

RESTRICTION ON DELIVERY HOURS

(5) No deliveries shall be made to the premises between 18.00 hours and 07.00 hours each day.

Reason:

In order to ensure that disturbance to local residents is minimised in accordance with policies CS22 and CS34 of the adopted core strategy.

EXTERNAL MATERIALS

(6) 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.

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, and 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
CS20 - Resource Use

CS01 - Sustainable Linked Communities
CS02 - Design
PPS4 - Economic Growth