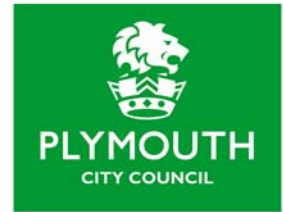


PLANNING APPLICATION REPORT



ITEM: 01

Application Number: 11/01874/FUL

Applicant: Pier Street Limited

Description of Application: Redevelopment of site for mixed use development comprising 14 residential apartments, ground floor café/restaurant (class A3 use) and associated basement car parking

Type of Application: Full Application

Site Address: FORMER TENNIS COURTS, HOE ROAD-PIER STREET
PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 25/11/2011

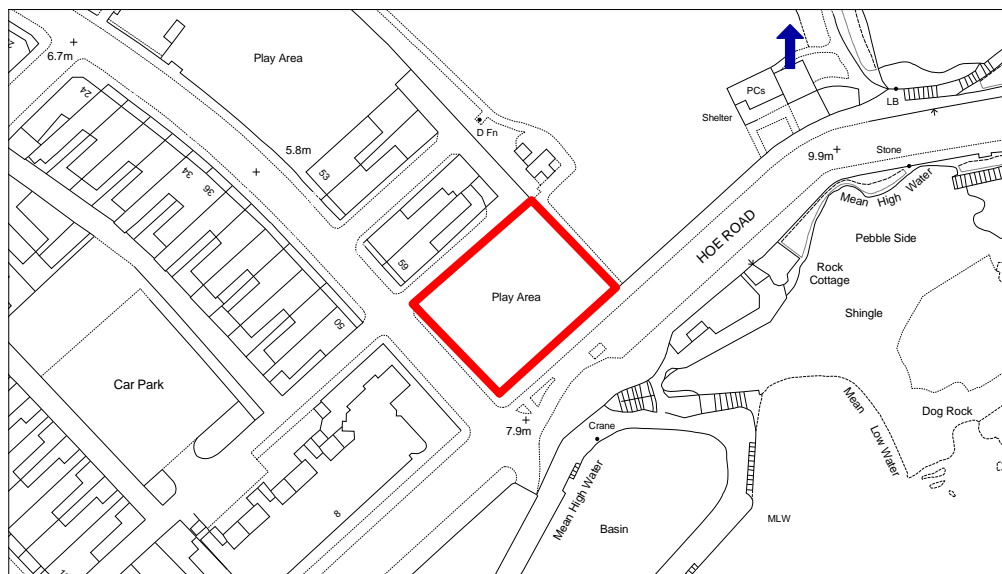
8/13 Week Date: **24/02/2012**

Decision Category: Major Application

Case Officer : Mark Evans

Recommendation: Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 17th February 2012

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Site Description

The site occupies a prominent location on Hoe Road and abuts the south west corner of West Hoe Park. The site is bounded by Pier Street and Hoe Road at its south and south west edges and by a small access/service road on its northern edge on which there are a number of on-street car parking bays. The site is situated within the Hoe Conservation Area.

In terms of the broader context of the site, the site lies in close proximity to The Hoe which is a Grade II Listed Designated Park and Garden. Whilst not within the designated Landscape itself, the setting of this landscape and its architectural backdrop of high quality buildings including the Grade II Listed buildings of the old Grand Hotel (Now converted into apartments), Elliot Terrace and the Grade I Listed Smeaton's Tower, is an important part of the site's setting.

In addition to local views of the site from Hoe Road, Pier Street and West Hoe Park, there are views down onto the site from the Hoe itself and Cliff Road, together with views from Plymouth Sound.

The adjacent West Hoe Park is a popular park for both locals and visitors for both its landscape qualities and the range of amusements it offers including a children's railway which bounds the site on its north eastern edge. It is important to note that the site is not within, or part of, West Hoe Park.

The site covers an area of approximately 0.09 hectares. It is rectangular in shape and is generally level. The site is currently vacant laid to tarmac and fenced off with a chain link / close boarded fence.

Proposal Description

Redevelopment of the site for mixed use development comprising 14 residential apartments, ground floor café/restaurant (class A3 use) and associated basement car parking.

Following the previous refusal of planning consent for a five story building on the site, the applicant has redesigned the building, deleting a whole floor off the building and increasing the inset of the top floor design. This results in the proposed development now being four storeys in height.

The set back of the top floor at the rear of the building has also been increased to pull the new, lowered upper floor further away from the properties on Pier Street to reduce the apparent massing of the development with respect to those properties.

The proposed basement car parking will be accessed from the rear service lane and will provide car parking spaces for a maximum of 21 vehicles, together with cycle storage, plant rooms, bin stores, Biomass Boiler and pellet store.

At ground floor level is a new commercial unit which will be accessed from the park.

The first and second floors have four, 2-bed apartments on each level. The third floor has been designed to step in at the front and rear in order to respond to the

reduced massing of the domestic terraces on Pier Street and includes one 4-bed apartment, one 3-bed apartment and one 2-bed apartment.

The ground floor of the park elevation has been designed so as to provide an open space for “al fresco” seating to the commercial unit in order to improve the active relationship of the ground floor use to the park and aid natural surveillance of this area.

Drawing on historic precedents from the Hoe and also the wider context of Plymouth, a strong projecting ground floor “loggia” is again proposed which links visually with the balcony line of the adjoining Hoe Road properties.

Similarly, the proposed projecting bays and winter gardens have been designed to respect the vertical and horizontal proportions of the adjoining terrace.

In order to improve the appearance of the roofscape of the building when viewed from the Hoe and Cliff Road, and also to create a net gain in biodiversity in accordance with adopted Core Strategy Policy CS19, the development incorporates a green roof. In consultation with PiCAS International, an independent bird control consultancy service which specialises in the provision of non-lethal, holistic and sustainable bird control systems, a humane permanent system to prevent the nesting of seagulls and other birds on the roof will also be implemented.

The proposed materials have been designed to reflect the context of the site at the ground floor being composed of fair faced and polished concrete for the ‘loggia’ element and fair faced ashlar Plymouth limestone for walls. The submitted Design and Access Statement states that the limestone will be sourced from Devon quarries and provides a link with both the history of the site and its material context. Bronze anodized aluminium windows and curtain walling system are also proposed.

From 1st to 2nd floors and at the rear of the building an off white lime coloured render is proposed. The recessed 3rd floor is designed as a highly glazed lightweight attic element and will be incorporate a framework in dark grey limestone or slate similar in quality to the slate roofs seen throughout the conservation area and a glazed curtain walling system.

Relevant Planning History

11/01875/CAC – Demolition of boundary walls – RECOMMENDED FOR APPROVAL / DECISION PENDING

11/01145/FUL - Redevelopment of site for mixed use development comprising 14 residential apartments, ground floor café/restaurant (class A3 use), public toilet facilities and associated basement car parking – REFUSED – APPEAL LODGED

11/01146/CAC - Demolition of boundary wall and steps - APPROVED

08/00615/FUL – Redevelopment of site for mixed use development comprising of 14 residential apartments, office, café/restaurant and associated basement parking - WITHDRAWN

Consultation Responses

Highway Authority

No objections subject to conditions relating to parking and access.

Environment Agency

Flood Risk Standing Advice applies (Flood Zone 1) - Surface water management good practice principles and standards should be applied.

South West Water

No objections.

Public Protection Service

Approve subject to conditions relating to Developer's Code of Practice, Noise, hours of operation, use of the outdoor commercial area, toilet facilities access, land quality, extract ventilation and mechanical plant details, deliveries and refuse collection.

English Heritage

No Objections - comments are as follows:

“This submission follows the refusal of the previous planning application for the site (your ref 11/01145/FUL). Following a process of negotiation an amended scheme has now been prepared to which we have no objection.

In our letter to your authority dated 15th August 2011 (our ref P00108780) we indicated that we had no objection to the principle of developing the site, nor to the use composition or the essential architectural concept of the scheme then proposed. Our outstanding concern at that time related to the scale or height of the proposed building, and the harm which we considered this would cause to the character and appearance of the conservation area and views into and out of it.

We drew attention to the provisions of PPS 5 and the need this highlighted in such circumstances for there to be public benefits of a type and level capable of justifying any decision to approve the scheme. We were happy to leave such assessment to the discretion of your authority in the understanding that a decision to either approve or refuse might follow.

In the event, the Council's Planning Committee refused the application, and we have been willing since then to liaise with your authority and the applicant to explore how its concerns might be met, and in particular how those we expressed could be overcome. From our point of view the exercise was relatively straightforward, as we had previously indicated that the simple expedient of removing a full storey from the building would probably be sufficient to eliminate those concerns.

The application now proposes a building which is a storey lower than its predecessor and we can confirm that we have no objections. The building sits more comfortably alongside its neighbours in Grand Parade and against the backdrop of The Hoe. The transition in townscape hierarchy from the grandeur of the seafront to the secondary and more domestic character of Pier Street is more sensitive in its

relationship between proposed and existing buildings and more reflective of local historic character in its achievement. “

Recommendation

We appreciate that there may be residual or other issues associated with the proposals of concern to your authority and we acknowledge that the success of the scheme will depend in large part on the integrity of its design, the attention to detail in its execution, and the quality of its materials' schedule, but we can confirm that we have no objections to the application and are happy to leave a decision on its merits to the discretion of your authority.

Garden History Society

Views awaited.

Ministry of Defence

Views awaited.

Police Architectural Liaison Officer

No objection subject to condition regarding installation of lockable gates to basement.

Representations

At the time of writing the Officer's report, 16 individual (non standard) letters of representation have been received. 238 duplicated “standard letters” have also been received, containing identical points. (Copies of all representations received are available for Member's inspection prior to Committee.)

Comments can be summarised as:

Principle

1. It is considered that concerns of members of the community and Plymouth City Council's Planning Committee have only been partially addressed by the revised plans.
2. It is considered that the views of Planning Committee as to their previous reasons for refusal have been completely ignored.
3. All Councillors voting on the issue should take greed out of the equation which is considered to be fundamentally the reason why people want to bulldoze this application through.
4. It is suggested that the Council should never have sold the land without imposing a stipulation that the ground should only be used for recreation and the enjoyment of people of, and visitors to, Plymouth. It is considered that the site is and always should be part of West Hoe Park.
5. The development is considered to conflict with the 1913 Covenant that “prevents any building on the land.....except dwelling houses or shops a character at least equal to the dwelling houses and shops on parts of West Hoe Building Estate in the adjoining land”.
6. The planning brief is out of date, was undertaken without public consultation and should be revisited.

7. Unnecessary development as there are a large number of empty flats in the locality.

Design

8. Inappropriate, unimaginative, contemporary design for the setting which is not in keeping with that of its neighbours and falls short of the Council's policy requirement for a development to contribute positively to the locality.
9. Building remains unsympathetic to the character of West Hoe. Despite the height and massing being reduced, the development is still considered to create an adverse and imposing impact on Pier Street, Grand Parade and West Hoe Park by virtue of its unsympathetic, imposing, ugly and daunting design.
10. The proposal is not considered to contribute to the character and local distinctiveness of the historic environment and will lead to substantial harm to the Hoe Conservation Area. Accordingly, the development is considered to fail to take account of PPS5 guidance in Policy HE7.5.
11. Even if it were to be judged that the harm was less than substantial, it is believed that this inappropriate scheme (as opposed to an alternative design which would enhance the area) has no public benefit and therefore it is impossible to outweigh the harm that it will do to The Hoe Conservation Area. The development therefore conflicts with PPS5 (HE9.4) which states "Where a proposal has a harmful impact on the significance of a designated heritage asset (which a Conservation Area now is), which is less than substantial harm, in all cases local planning authorities should: (i) Weigh the public benefit of the proposal against the harm:"
12. It is considered that the derelict site deserves to be filled with a complementary and iconic landmark.
13. The development will compromise views of this green oasis from the sea. The views across the sea from the park and the road above should be respected.
14. The eastern end of the building should be limited to be in line with the end of the terraced properties in Pier Street.
15. The proposed footprint is too large.
16. The proposed external materials are inappropriate for this exposed waterfront location.
17. The boundary fencing is out of keeping.

Green Roof

18. The green roof will not disguise the building and will encourage seagulls, other birds and rats. It will also require constant and expensive maintenance.
19. It is reported that Grand Parade previously had a problem with seagulls and nesting birds on its roof and has just had to spend several thousand pounds placing seagull proofing and bird proofing spikes and netting over the whole roof. It is reported that there are now no problems with respect this issue as these measures have satisfactorily addressed this problem.
20. A stepped down roofline, modern interpretation of a mansard or re-designed low angle gull roof would be more in keeping with the adjoining buildings.
21. The green roof is considered to detract from the views to be had from the elevated position of Cliff Road and Grand Hotel Road.

Impact on neighbouring properties

22. Development still results in overshadowing of Pier Street properties.

Impact upon West Hoe Park

23. The building is too long and will intrude too far into the visual splays both in and out of the park.
24. The development will restrict light to the park and will overshadow the children's train.
25. Consideration should be had to the effect on the train business during building works.
26. One letter of concern requests that the Council declares publically what its intentions are for the role and location of the existing commercial park train, bouncy castle and amusement ride, public toilets and public shelter that exist in West Hoe Park, as it is considered to be "naïve" to think that the existing commercial uses can carry on in the "back garden of a block of flats".
27. There are no readily apparent public benefits to the development.

Commercial Unit

28. It is considered that there are already many similar (café) amenities in the close vicinity. A further café may have a detrimental impact on existing businesses taking into account the current difficult economic climate.

Highways and Parking

29. Pier Street and other narrow roads are inadequate to cope with additional traffic generated and will lead to conflicts in vehicular movements and adverse impact on highway safety.
30. The proposed vehicular parking is considered to be inadequate to cope with likely demand.
31. The development will cause a severe blind spot at the road junction with Pier Street and Hoe Road creating an additional hazard to pedestrians and other road users.

Public Toilets

32. Objection to the proposed public toilets as there are already satisfactory toilets in the park.

Pre-application Advice

Prior to application submission, detailed pre-application discussions took place with Council officers and English Heritage, with a view to working to address the three reasons for refusal of the previously submitted planning application. In addition the applicant held a number of consultation meetings with local representatives of the Friends of West Hoe Residents Association.

The consultation response of English Heritage formally confirms that English Heritage does not object to the revised development proposal as now submitted.

Analysis

With respect to the previous application submission (Reference: 11/01145/FUL), it is a material planning consideration that the three Planning Committee reasons for refusal were focused on an objection to the originally proposed dominant and overbearing scale, height and massing of the development with respect to residential properties on Pier Street, the Hoe Conservation Area and on West Hoe Park.

For ease of reference, the three reasons for refusal of the previous planning application on this site, ref: 11/01145/FUL, are as follows:

“(1) ADVERSE IMPACT ON RESIDENTIAL PROPERTIES (PIER STREET)

The proposed development would have a significant adverse impact upon the residential amenity of neighbouring properties on Pier Street, by virtue of the close proximity, dominant scale, height and massing of the building to neighbouring properties to the rear of the site, with a resultant dominant, overbearing impact. Such development is contrary to adopted policies CS01, CS02 and CS34, adopted Development Guidelines Supplementary Planning Document (2009), together with Government guidance contained in PPS1.

(2) ADVERSE IMPACT ON HOE CONSERVATION AREA

The proposed development would have a negative impact upon the historic appearance and locally distinctive character of the Hoe Conservation Area by virtue of its dominant scale, height and massing with relation to the rear properties on Pier Street. Such development is contrary to adopted policies CS01, CS02, CS03 and CS34, adopted Development Guidelines Supplementary Planning Document (2009) together with Government guidance contained in PPS1 and PPS5.

(3) ADVERSE IMPACT ON WEST HOE PARK

The proposed development would have a significant adverse impact upon a local amenity feature within an area of public space within West Hoe Park by virtue of its dominant scale. Such development is contrary to adopted policies CS01, CS02 and CS34, adopted Development Guidelines Supplementary Planning Document (2009), together with Government guidance contained in PPS1, PPS5 and PPG17.”

It is also a material planning consideration that the consensus of the Planning Committee, on consideration of the previous planning application, was that the modern design of the development was considered to be acceptable and therefore the wording of the three reasons for refusal were generated by Planning Committee to exclude any objection based on the proposed modern/contemporary design.

The current planning application proposes a significant reduction to the scale, height and massing of the development, achieved by removing an entire floor off the development previously refused by Planning Committee, whilst retaining the same modern design detail.

The key issues are:

1. Impact upon the amenities of neighbouring properties and uses (Policy CS02 and CS34 of the Core strategy)

2. The impact of the development on the appearance and character of the Hoe Conservation Area and setting of listed buildings in the locality. (Policy CS01, CS02, CS20, CS32 and CS34 of the Adopted Core Strategy)

3. Impact on West Hoe Park (Policy CS01, CS02, CS03, 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 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); CS03 (Historic Environment), CS13 (Evening/Night-time Economy Uses); CS18 (Plymouth's Green Space), CS20 (Sustainable Resource Use); CS21 (Flood Risk), 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 National Planning Policy Framework Consultation Draft (Revised August 2011), PPS1 - Delivering Sustainable Development, PPS3 – Housing, PPS5 – Planning for the Historic Environment, PPS9 – Biodiversity, PPG13 – Transport, PPG17 – Planning for Open Space, Sport and Recreation, PPS22 – Renewable Energy, PPS23 – Pollution Control, PPG24 – Noise, PPS25 – Development and Flood Risk, adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009), adopted Planning Obligations and Affordable Housing Supplementary Planning Document (2010), draft Hoe Area Action Plan.

The impact of the development on the appearance and character of the Hoe Conservation Area and setting of listed buildings in the locality.

The application site lies within The Hoe Conservation Area such that, for the purposes of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, there is a duty to have regard to the desirability of preserving or enhancing the character or appearance of the area.

For completeness however, for the purposes of interpretation of S72, it should be noted that a material planning consideration with respect to case law *South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204 in which it was held that, “*there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve. Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.*”

In the context of the above, the designated conservation area clearly constitutes a heritage asset for the purposes of guidance contained in PPS5 and, therefore, policy HE7 is of relevance to this proposal. Policy HE7.5 provides that, *“local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.”* Insofar as the application site historically comprises an integral part of the built environment of The Hoe, and is considered by officers to presently detract from the character and appearance of the area in terms of its weak resolution to this important corner site in terms of its streetscape function, the construction of a substantial building would be fundamentally beneficial in townscape terms.

A well detailed, contemporary design proposal is considered entirely appropriate for a development site within a conservation area provided its scale, massing and detailed design is in keeping with the appearance and character of the area, and in accordance with the above mentioned case law, either makes a positive contribution to an area's character or appearance, or leaves character and appearance unharmed.

This point has been further recognised by English Heritage in its initial consultation response on planning application 11/01145/FUL, where, in acknowledging the complex context of the site, it stated that the complex brief which such a scheme will need to respond to may strongly suggest that a more contemporary approach is preferred on this site. English Heritage went on to advise (with respect to the proposed modern design) that *“The building possesses a vertical ordering and horizontal rhythm to provide contemporary but contextually informed architecture whose idiom sits comfortably next to its historic neighbours along the sea front. The solid to void ratio of the principal elevational handling, lightness of touch and essentially domestic flavour provide the transitional style which is necessary in this location. The success of such an architectural approach will be dependent on attention to detail and quality in execution but in principle has much promise”*. Such an approach is considered to be fully supported by adopted Core Strategy Policies CS02 and CS03 and Government advice contained within PPS1 and PPS5.

With respect to the current revised development proposals the subject of this planning application, English Heritage has confirmed that as the application now proposes a building which is a storey lower than its predecessor, it has no objections on the basis that *“the building sits more comfortably alongside its neighbours in Grand Parade and against the backdrop of The Hoe”*.

English Heritage also considers that the transition in townscape hierarchy from the grandeur of the seafront to the secondary and more domestic character of Pier Street is also *“more sensitive in its relationship between proposed and existing buildings and more reflective of local historic character in its achievement”*. It is noted by English Heritage that the success of the scheme will depend in a large part on the integrity of its design, the attention to detail in its execution, and the quality of its materials schedule. Accordingly, conditions are recommended to enable such close attention to the specific design detailing in order to achieve the deliverability of the required high quality end design.

The submitted photo-realistic computer generated images (CGI's) are considered to clearly demonstrate that in the opinion of officers, when viewed in context of the surrounding buildings, the design and reduced scale, height and massing will not have a significant adverse impact upon the appearance and character of the Conservation Area and will in fact be sympathetic to the scale of buildings both on Hoe Road, Pier Street and the wider locality. This most significantly, creates a far more positive resolution to this important corner site in addition to strengthening the streetscape and is therefore considered a positive impact on the Hoe Conservation Area.

Locally distinctive references such as the use of projecting bay winter gardens designed to respect the scale of projecting bay windows on Pier Street albeit in a contemporary manner and the strong vertical rhythm these create, respects that created on the adjoining Grand Parade building.

Further locally distinctive references are achieved on the Hoe Road, Pier Street and Park façades through the introduction of a horizontal loggia over-sailing the whole of the recessed ground floor, which reflects the rhythm of buildings further down Grand Parade, in addition to creating a quality frontage onto the park with active ground floor commercial unit to acknowledge the importance of the park. The ground floor commercial unit is strongly supported in terms of helping to achieve the Vision for Plymouth aspiration for the creation of a vibrant, active street scene.

The design and reduced scale, height and massing of the proposed development is therefore considered by officers to fully address previous concerns expressed by Planning Committee with regards the impact of the development upon the Hoe Conservation Area and particularly in relation to the rear properties on Pier Street. The resultant development will be in keeping with development in the locality and will make a positive contribution to the character and local distinctiveness of the historic environment and wider Hoe Conservation Area, in accordance with guidance contained in PPS5 (Para 7.5) and adopted Core Strategy policies CS02 and CS03.

The development is not considered to have an adverse impact on the setting of the Listed Buildings on the Hoe such as the Grand Hotel, Elliot Terrace or Smeaton's Tower, and does not have a significant adverse impact upon the Hoe vista when viewed from both local and distant vantage points.

It is the officer's view therefore that the development accords with the Hoe Conservation Area Appraisal and Management Plan 2008, adopted policies CS01, CS02, CS32 and CS34, the Council's adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009), draft Hoe Area Action Plan and Government guidance contained in PPS1, PPS3 and PPS5.

The 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.

The removal of a floor off the previously submitted five storey development proposal (11/01145/FUL) to create a four storey building, together with revisions to the rear elevation of the property to reduce its massing in relation to the neighbouring properties on Pier Street, are considered to address the previous concerns expressed by Planning Committee that the development would have an adverse impact on residential properties. On this basis the reduced scale, height and massing of the development is considered to create an acceptable impact on the adjoining properties on Pier Street.

Third party representations previously expressed by residents of the adjoining residential developments who currently enjoy unimpeded views over the site out to the Sound and Hoe, raise concerns about 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.

In terms of overlooking and sunlight issues, the distance of the rear of the proposed development to the end gable of the nearest neighbouring property on Pier Street ranges between approximately 8-10m. This increases further to a maximum of 12m with respect to the relationship with the rear tenements on Pier Street.

It is noted that the windows in the end gable of the property on Pier Street are secondary windows to sitting rooms which have primary bay windows facing Pier Street. The remaining windows in the tenement are bedroom windows, bathroom windows, kitchen windows and a dining room window. Taking into account the City Centre location, the relationship and orientation of the development to adjoining properties is not considered by officers to be entirely reasonable and is not considered to have a significant adverse impact in terms of overlooking, loss of privacy or upon the levels of sunlight enjoyed by existing residents.

This conclusion is also based on the submitted Daylight and Sunlight Study which has been carried out in accordance with Building Research Establishment (BRE) good practice guidance Digest 209 and requirements of the British Standard, BS 8206 Part 2.

It is demonstrated that although the development will result in a degree of overshadowing of the neighbouring properties, they will still continue to receive adequate levels of daylight and sunlight within the dwellings and the surrounding amenity areas in accordance with BRE guidelines.

The BRE guidelines advise that Sunlight is measured in terms of how many hours of sun a window will receive over the course of a year. The BRE sunlight tests are only applicable to main windows which face within 90 degrees of due south. The BRE guidance recommends that main windows should receive at least 25% of the total annual probable sunlight hours, including at least 5% of the annual probable sunlight hours in the winter months between 21st September and 21st March. Sunlight availability will be adversely affected if the total number of sunlight hours falls below these targets and is less than 0.8 times the amount prior to the development.

In the case of the proposed development the degree of sunlight availability is not considered to conflict with the BRE guidelines identified above. It follows that this will also increase in the summer months.

In conclusion the design and reduced scale, height and massing of the proposed development is considered by officers to be satisfactory and fully addresses previous concerns expressed by Planning Committee with regards the impact of the development upon the neighbouring properties on Pier Street . The development therefore complies with policy CS34 (Planning Application Considerations).

The impact of the development upon West Hoe Park

Whilst the development site does not physically encroach on West Hoe Park, it is acknowledged that despite its reduced scale, height and massing, the proposed development (and in fact any development on this site) will have an impact upon West Hoe Park, in terms of the outlook from the park and views into and across the park from close up and distant vantage points.

In the opinion of officers, the design and reduced scale, height and massing of the proposed development is considered by officers to be satisfactory and fully addresses concerns that the development would have a dominant impact on the park, as previously expressed by Planning Committee.

In addition the submitted Daylight and Sunlight Study which has been carried out in accordance with Building Research Establishment (BRE) good practice guidance 209 and requirements of the British Standard, BS 8206 Part 2, demonstrates that the development will result in a degree of overshadowing of the park in the afternoon.

The BRE guidelines advise that for gardens and open spaces to appear to be adequately sunlit throughout the year, no more than 40% (two fifths) and preferably no more than 25% (one quarter) of any such space should be prevented by buildings from receiving any sun at all on the 21st March. It follows that if some sun is received on the 21st March, there will be increased sunlight levels over the summer months.

In the case of the proposed development the degree of overshadowing on the 21st March is considerably less than 40%, covering an area of the park in the afternoon only, of less than 10%. It follows that this will reduce in the summer months. On this basis the degree of overshadowing on West Hoe Park is considered to be insignificant and a refusal of the planning application on this basis is not justifiable.

A material planning consideration is the fact that within the refusal reasons for the previous scheme, no reference is made to the originally proposed development (which was of greater scale, height and massing), having any significant overshadowing impact on West Hoe Park or the Children's Train.

In terms of the impact on views into and out of the park, as previously stated within this report, the building has been carefully designed to be sympathetic to the scale of buildings both on Hoe Road and Pier Street and is considered by officers to enhance the built environment by creating a more positive resolution to this important

corner site at the boundary of the park, strengthening the streetscape and creating an active frontage with improved natural surveillance onto the park itself.

In the context of the whole of the park area, views into and out of the park of the Sound and Drake's Island are already relatively restricted to varying degrees depending on where within the park you stand due to the topography of the park and the existence of the foreshore boundary wall. On this basis the impact of the development on the outlook of the park is considered to be insignificant.

The impact on the microclimate within the park is considered by officers to be a positive one. As previously reported, the degree of over shadowing is not considered to be significant both in terms of the small proportion of the area of the park affected and also due to the amount of time during the year the overshadowing occurs. The development would provide a degree of shelter to the park from the south westerly prevailing winds. On balance, the impact on the microclimate within the park is considered to be acceptable.

The impact of the development in terms of direct overlooking from the apartments onto the park is considered by officers to be a positive one as it increases natural surveillance of the park, an area within which it is noted has previously experienced relatively high levels of anti-social behaviour centred in and around the public conveniences. Increased natural surveillance of this space would be likely to help reduce this situation.

On balance therefore, the design and reduced scale, height and massing of the proposed development is considered by officers to be satisfactory and fully addresses previous concerns expressed by Planning Committee with regards the impact of the development on the park. The development does not set a precedent for development of West Hoe Park itself. On this basis the development complies with policy CS34 (Planning Application Considerations) and Planning Policy Guidance contained in PPG17.

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

The Highway Authority reports that the increase in traffic associated with a development of this size does not cause concerns on the local highway network in terms of capacity. The site is within close proximity to the City Centre, local shops and facilities and Public Transport links. The proposed parking provision of 1.5 spaces per unit is in accordance with current standards. A condition is recommended to ensure that a satisfactory internal car parking layout is achieved.

The proposed basement access is proposed via the service lane adjacent to the site which is designated as a Highway Maintainable at Public Expense and therefore in the full control of the Highway Authority. It is noted that the southern side of the road is controlled by on-street parking restrictions in the form of double yellow lines. The northern edge currently has 23metres in length of resident permit parking bays. These bays commence approximately 2metres from the junction to Pier Street. The applicant has provided tracking plots which demonstrate that adequate access provision can be made into and out of the basement access.

However, inter-visibility between the access and the junction to Pier Street is limited and should two cars meet it is likely to result in reversing manoeuvres. This can occur at present and a vehicle reversing onto Pier Street does cause concern. As such the developer will be required to reduce the length of the existing permit parking bay and relocate the lost spaces to Pier Street. There is adequate length available between the Hoe Road roundabout and the access lane to provide an increase in the total number of permit bays, in place of the existing double yellow lines. This will be of benefit to existing residents, due to an increase in parking provisions for permit holders but will ultimately ensure that a vehicle can enter the access lane and wait to let an exiting vehicle pass. This will be the subject of a Traffic Regulation Order.

Contrary to concerns raised regarding the potential for the development to create an accident blackspot at the road junction due to its siting, the Highway Authority does not consider that the siting of the development will adversely affect visibility at the junction nor have any adverse impact on highway safety at this point.

On this basis, the Highway Authority does not object to the proposed development.

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

The site lies within a resident parking permit scheme which is currently over-subscribed. As such the new development will be excluded from obtaining permits or visitor tickets. An informative is recommended accordingly. The proposed secure cycle storage is considered to be sufficient and the ongoing use of this space will be secured by condition.

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

Sustainable Resource Use

National Planning Policy Framework Consultation Draft (Revised August 2011) states a presumption in favour of sustainable development. The building is considered to be a sustainable development as it is designed to achieve the requirements of the Code for Sustainable Homes Level 3 or better, and proposes a green roof in addition to the installation of a Biomass Boiler for its heating and hot water requirements.

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.

An appropriate condition is recommended to ensure the development delivers the above policy requirement to offset at least 15% of predicted carbon emissions. On this basis the development will accord with the requirements of Policy CS20 and Government advice contained within PPS22 and the draft National Planning Policy Framework.

Lifetime Homes

Policy CS15 requires that 20% of all new dwellings for Plymouth shall be constructed to Lifetime Homes Standards. Lifetime homes allows for the 'future proofing' of all new dwellings and should be considered desirable in all cases.

A condition is recommended to ensure that a minimum of 20% of the apartments provide accessible and adaptable accommodation for everyone in accordance with the Lifetime Homes guidance. Provisions to meet these standards will include design for future provision of stair lifts or through-floor lifts, an entrance level WC and provision or potential for conversion for a ground floor bed space.

On this basis the development will fully accord with policy CS15 of the Core Strategy.

Other Matters

Covenant – The reference to the 1913 Restrictive Covenant that applies to this land is noted. The existence of a Civil Covenant on this site is not a material planning consideration. Any grant of planning consent would not override the clauses of the Covenant.

The terms of the Covenant clearly enable any land sold as surplus by the Council to be used for dwellings and shops. The former tennis courts were sold by the Council as surplus.

The Council also complied with all statutory requirements under the Local Government Act 1972 in disposing of this site.

The planning application is, in any event, an entirely separate issue to the covenants and it is for the developer, not the Council, to satisfy itself that its proposed development will not breach these covenants.

Planning Brief - The Planning and Design Brief produced by the Council serves purely as a guideline to potential developers and as it has no formal status and carries considerably less weight than if it were a formally adopted document. The weight to be accorded to it will be balanced against several material planning considerations which need to be taken into account when considering any development proposal on this site.

Public Toilets – A third party objection has been raised on the basis that the scheme is proposing to include new public toilet facilities. The current application does not include any proposal for new or replacement public toilets and therefore this objection is not considered to be of relevance to this planning application.

Biodiversity / Green Roof - The proposed development proposes an extensive green roof system which will result in a net gain in Biodiversity in accordance with adopted Core Strategy Policy CS19 and Government advice contained in PPS9. Following Consultation with PiCAS International, an independent bird control consultancy

service which specialises in the provision of non-lethal, holistic and sustainable bird control systems, a humane permanent system to prevent the nesting of seagulls and other birds on the roof will be implemented. A condition is recommended to ensure that such a system is implemented on site prior to any occupation of the building and retained thereafter.

Impact during construction works – Concerns regarding the potential for the construction phase of the development to cause disruption to existing residential uses or the adjoining children’s train are noted. Whilst it is acknowledged that this is a city centre site where a level of disruption can be reasonably expected during redevelopment or construction work occurring on development sites in the locality, it is considered to be appropriate to impose restrictions through planning conditions on the developer’s construction practice (Code of Construction). This includes restricting hours of construction deliveries, construction vehicle routes through the city and requiring appropriate mitigating measures for noise, vibration, dust and smell nuisance. A condition to address this matter is recommended accordingly.

Non material planning considerations – The question of whether additional apartments in this locality are actually needed, is not a material planning consideration.

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.

Section 106 Obligations

The proposed development would have cumulative impacts on local and strategic infrastructure and the environment requiring mitigation. This mitigation will be achieved through a combination of planning conditions and planning obligations identified in a S106 agreement. Each planning obligation has been tested to ensure that it complies with the three tests set out in Reg.122 of the Community Infrastructure Levy Regulations April 2010.

The impacts relate to the following areas:-

Local Infrastructure:

I. Schools

The Lifelong Learning Department confirms that the development has the potential to place a demand for school places in the South West and South East Localities. The Council’s Children’s Services have provided evidence that there is likely to be a deficiency of school places in the locality from 2012 given projected population

growth. There is therefore an impact on schools that needs to be mitigated. The estimated cost of mitigating this impact is £30,152.

2. Libraries

By reason of the increased population facilitated by the development and the increased demand for use of library services in the locality, Library Services advise that development in this area will generate a pressure on the existing Central Library facility which The Planning Obligations Evidence Base advises is already in need of additional capital investment as a result of the cumulative impact of population growth. The development will therefore generate an impact that needs to be mitigated. The estimated cost of mitigating this impact is £2,336.

3. Playing Pitches.

The Plymouth Playing Pitch Strategy 2007-2016 identifies that the South Sub Area of the city is deficient in terms of access to playing pitches. There is therefore an impact on infrastructure requirement that arises as a result of the development, namely the provision of improved access to playing pitches. The estimated cost of mitigating this impact is £12,340.

4. Local Children's Play Space –

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact on existing play facilities, most specifically an additional pressure on its management. There is therefore an impact on children's playspace that needs to be mitigated. The estimated cost of mitigating this impact is £4,870.

5. Local Greenspace

By reason of the increased population facilitated by the development and the potential increased demand for the use of West Hoe Park, it will contribute to the cumulative impact of development on local greenspace. The estimated cost of mitigating this impact is £6,802.

Strategic Infrastructure:

1. Strategic Greenspace

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the quality of environmental sites protected by legislation, particularly through increased recreational demands. The Council's has an obligation through the Habitats Regulations Assessment of the Local Development Framework Core Strategy and relevant Development Plan Documents to seek mitigation for such cumulative impacts. The estimated cost of mitigating this impact is £15,174

2. European Marine Site

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the environmental quality of European Marine Site particularly through increased recreational demands. The Council's has an obligation through the Habitats Regulations Assessment of the Local Development Framework Core Strategy and relevant Development Plan Documents

to seek mitigation for such cumulative impacts. The estimated cost of mitigating this impact is £360

3. Strategic Sports Facilities

By reason of the increased population facilitated by the development and the increased demand for use of sports facilities, it will contribute to the cumulative impact of development on the city's sports infrastructure. The estimated cost of mitigating this impact is £9,696

4. Strategic Transport

By reason of the increased population facilitated by the development and the increased demand for journeys, it will contribute to the cumulative impact of development on the city's strategic transport infrastructure. This will bring the likelihood of increased congestion and pollution unless there is adequate mitigation. The estimated cost of mitigating this impact is £55,006

5. Strategic Public Realm

By reason of the increased population facilitated by the development, it will contribute to the cumulative impact of development on the City Centre's public realm. This is because there will be a greater level use of the City Centre which itself generates extra pressure on the existing infrastructure. The estimated cost of mitigating this impact is £1,152

The total estimated cost of mitigating these impacts would be £137,888 if this is to be delivered through financial contributions.

A Planning Obligations Management Fee of £7,486 would also be required. This management fee will be used to meet the Council's costs in administering and monitoring implementation of the Section 106 Agreement.

The applicant has indicated that they wish to have the application considered under the Council's Market Recovery Scheme, which aims to support development delivery when viability is a major constraint. The applicant is prepared to accept the terms of the Scheme to make a substantive start on site within 2 years. The early delivery of this project is considered to be a weighty material consideration in its own right, sufficient to justify a limited relaxation of the Council's policy requirements for mitigation of development impacts, in accordance with the Market Recovery Scheme. This enables the proposal to benefit from up to a 50% discount on developer contributions.

Section 106 Obligation Heads of Terms:

The following Heads of terms are therefore proposed to offset the impact of the development on Local and Strategic Infrastructure, each of which have been tested against Regulation 122 of the Community Infrastructure Levy Regulations 2010, to enable appropriate mitigation of the impacts identified above:

1. £68,944 financial contribution towards off-setting the impact of the development on Local and Strategic Infrastructure in accordance with the Plymouth

Obligations and Affordable Housing Supplementary Planning Document, payable upon commencement of development.

This amount can be broken down as:

Local Infrastructure

- i Local schools tariff: Fifteen thousand and seventy six pounds (£15,076) to be allocated to the provision of additional school places within the South West and South east locality.
- ii Libraries tariff: One thousand one hundred and sixty eight pounds (£1,168) to be allocated to the provision of improved library facilities in the area.
- iii Playing pitches tariff: Six thousand one hundred and seventy pounds (£6,170), to be allocated to the provision of improved playing pitch facilities in the South sub-area, as identified in the Playing Pitch Strategy.
- iv Local play space tariff: Two thousand four hundred and thirty five pounds (£2,435), EITHER to be allocated to the provision of local play facilities in an accessible location to the development OR to be allocated to the improvement of local play facilities.
- v Local greenspace tariff: Three thousand four hundred and one pounds (£3,401) to be allocated to the upgrade or management of local greenspace in West Hoe Park.

Strategic Infrastructure

- a) Strategic green space tariff: Seven thousand five hundred and eighty seven pounds (£7,587) to be allocated to the provision of strategic green spaces that help to take pressure off the designated environmental sites, as set out in the Plymouth Green Infrastructure Delivery Plan.
- b) European Marine site tariff: One hundred and eighty pounds (£180) to be allocated to appropriate management measures for the Tamar Estuaries as set out in the Tamar Estuaries Management Plan
- c) Strategic sports facilities tariff: four thousand eight hundred and forty eight pounds (£4,848) to be allocated to the delivery of priority strategic sports facilities as set out in the Sports Facilities Strategy.
- d) Strategic Transport tariff: Twenty seven thousand five hundred and three pounds (£27,503), to be allocated to the

delivery of priority strategic transport interventions as identified in the LTP3 Transport Implementation Plan

- e) Public realm tariff: Five hundred and seventy six pounds (£576) to be allocated to the delivery of priority City Centre public realm improvements as proposed in the City Centre and University Area Action Plan

The above Heads of Terms have been agreed with the applicant.

Equalities & Diversities issues

The building will be available to men and women, people of all faith and race groups.

The building will be designed to be fully accessible in accordance with Part L of the Building Regulations.

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.

Conclusions

The modern design and reduced scale, height and massing of the proposed development is considered by officers to fully address the three previous concerns expressed by Planning Committee with regards the impact of the development on the appearance and character of the Hoe Conservation Area, the impact of the development upon West Hoe Park and the impact of the development upon neighbouring properties on Pier Street.

The design, scale, height and massing is in keeping with development in the locality and will make a positive contribution to the character and local distinctiveness of the historic environment and wider Hoe Conservation Area, in addition to making a positive resolution to this important corner site, strengthening the streetscape at this point, in accordance with adopted Core Strategy Policies and Government guidance contained in PPS5.

English Heritage raises no objections to the proposed development on the basis that the design of the building, and revised height, scale and massing, results in a building that sits more comfortably alongside its neighbours in Grand Parade and against the backdrop of The Hoe. The transition in townscape hierarchy from the grandeur of the seafront to the secondary and more domestic character of Pier Street is

considered by officers and English Heritage to be appropriate and more sensitive in its relationship between the proposed and existing buildings, and more reflective of local historic character in its achievement.

The impact of the development upon the highway network is considered to be acceptable.

On this basis the proposed development is considered to fully accord with the adopted policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

It is recommended that the development proposal be granted conditional consent 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 17th February 2012.

Recommendation

In respect of the application dated **25/11/2011** and the submitted drawings 10123.L01.01 Rev P1, 10123.L02.10 Rev P3, 10123.L02.11 Rev P3, 10123.L04.01 Rev P3, 10123.L04.02 Rev P3, 10123.L04.03 Rev P3, 10123.L04.04 Rev P2, 10123.L04.07 Rev P3, 10123.L04.08 Rev P3, 10123.L04.11, 10123.L04.32 Rev P2, 10123.L09.05 Rev P1, 10123.L90.01 Rev P1, Vehicle Swept Path Analysis 9861.501 Rev P4, Statement of Community Involvement, Design and Access Statement, Phase 2 Preliminary Geotechnical Report, Renewable Energy Statement, Daylight, Sunlight and Overshadowing Study Rev P3, Photo Visualisations: 10123.L04.09 Rev P2, 10123.L04.06 Rev P3, 10123.L04.05.Rev P3 (for information only), it is recommended to: **Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 17th February 2012**

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.

ACCORD WITH PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans 10123.L01.01 Rev P1, 10123.L02.10 Rev P3, 10123.L02.11 Rev P3, 10123.L04.01 Rev P3, 10123.L04.02 Rev P3, 10123.L04.03 Rev P3, 10123.L04.04 Rev P2, 10123.L04.07 Rev P3, 10123.L04.08 Rev P3, 10123.L04.11, 10123.L04.32 Rev P2, 10123.L09.05 Rev P1, 10123.L90.01 Rev P1, Vehicle Swept Path Analysis 9861.501 Rev P4, Statement of Community Involvement, Design and Access Statement, Phase 2 Preliminary Geotechnical Report, Renewable Energy

Statement, Daylight, Sunlight and Overshadowing Study Rev P3, Photo Visualisations (for information only): I0123.L04.09 Rev P2, I0123.L04.06 Rev P3, I0123.L04.05 Rev P3.

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.

DESIGN DETAILS

(4)) Notwithstanding the submitted details, the development hereby permitted shall not commence until the following details (to include drawings including sections at a scale of not less than 1:20 with key details at a scale of 1:10) have been submitted to and agreed in writing with the Local Planning Authority:

1. Details of the design, method of construction and finish of the winter garden bays (including balconies, balustrades, frames, spandrel panels and junctions with ground floor loggia/colonnade, stone and render);
2. Details of the design, method of construction and finish of the windows including junctions with head, cill's and jambs;
3. Details of the design, method of construction and finish of the ground floor loggia/colonnade including soffit and lighting adjacent to commercial unit;
4. Details of the design, method of construction and finish of the principal entrance doors and ground floor commercial unit window system, including junctions with ground floor loggia/colonnade together with details of the basement garage door/gate;
5. Details of the design, method of construction and finish of the junctions between stone, render and concrete including parapet at 3rd floor;
6. Details of the design, method of construction and finish of the 3rd floor penthouse including details of the curtain walling system, soffits, stone clad columns, walls and eaves;
7. Details of the design, method of construction and finish of the access gates to lower ground level;

8. Details of the design, method of construction and finish of the boundary railings/stone plinths, replacement boundary wall adjacent to the highway and junctions with ground floor loggia/colonnade;

9. 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 or other accretions to the roof or elevations. Unless otherwise agreed in writing with the Local Planning Authority, before any roof plant and/or machinery is used on the premises, it shall be enclosed with sound insulating material and mounted in such a way which will minimise the transmission of structure borne sound in accordance with a scheme to be approved in writing by the Local Planning Authority.

The above details shall be strictly adhered to during the course of development and thereafter be so retained and maintained.

Reason

To enable the Local Planning Authority to consider the above details in the interests of the appearance and character of the building and locality, in accordance with Policies CS01, CS02, CS03 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007

EXTERNAL MATERIALS

(5) 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.

SURFACING MATERIALS

(6) No development shall take place until samples 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.

GREEN ROOF LANDSCAPE DESIGN AND BIRD CONTROL PROPOSALS

(7) No development shall take place until full details of the green roof soil medium and water irrigation system and a programme for the implementation of the landscaping scheme shown on approved Roof Planting Scheme drawing number 10123 L04.32 Rev P2, have been submitted to and agreed in writing by the Local Planning Authority.

These works shall be carried out as approved prior to occupation of the building and thereafter so maintained and retained. These details shall also include cultivation and other operations associated with plant and grass establishment; the implementation, phasing and proposed ongoing maintenance programme together with details of the design of a seagull and bird control system for the roof of the building.

Reason:

To ensure that satisfactory landscape works and bird control systems are implemented in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LANDSCAPE MANAGEMENT PLAN

(8) A green roof landscape and bird control system management plan, including long term objectives, management responsibilities and maintenance schedules for the roof landscaping maintenance and bird control measures for a minimum of ten years, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development for its permitted use and shall thereafter be carried out in accordance with the approved schedule.

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.

GRAMPIAN (9)

(9) Notwithstanding the submitted details of the proposed access and highway improvements, no development shall commence on site until details of the proposed access and improvements to the existing highway have been submitted to and agreed in writing by the Local Planning Authority. Such agreed details shall be strictly adhered to during the course of development. The development shall not be occupied until the approved access and highway improvements have been completed on site.

Reason:

In the interests of highway and pedestrian safety in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

DETAILS OF NEW JUNCTION

(10) 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.

ACCESS

(11) 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.

CYCLE STORAGE

(12) 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.

PROVISION OF PARKING AREA

(13) Notwithstanding the details of the car parking shown on the submitted plans, no work shall commence until details of the design and layout of each car parking space has been submitted to and agreed in writing by the Local Planning Authority.

Each parking space shown on the subsequently approved plans shall be constructed, drained, surfaced and made available for use before the unit of accommodation that it serves is first occupied and thereafter that space shall not be used for any purpose other than the parking of vehicles.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

OPENING HOURS

(14) The commercial use hereby permitted shall not be open to customers outside the following times: 08.00 - 23.00 hours Mondays to Sundays.

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.

LIFETIME HOMES STANDARDS

(15) 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 meet the needs of disabled people so that they may live as part of the community in accordance with adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007 Objective 10, Policy CS15, and relevant Central Government advice.

COMMERCIAL WINDOW DISPLAYS

(16) Unless otherwise previously agreed in writing with the Local Planning Authority, at least 75% of the ground floor commercial unit display windows shall be constructed so as to permit open views into the commercial unit. For the avoidance of doubt, no more than 25% of the total display window area shall be 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 appearance and character of the building and locality and in accordance with adopted Core Strategy policies CS01, CS02, CS34 and relevant Government advice contained in PPS1 and PPG6.

SUSTAINABILITY

(17) 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 for the period up to 2016, a minimum of 15% of the carbon emissions for which the development is responsible will be off-set by low carbon production methods. The carbon savings which result from this will be above and beyond what is required to comply with Part L Building Regulations.

Unless otherwise agreed in writing, the approved on-site renewable energy production methods shall be provided in accordance with these details prior to the first occupation of the development and thereafter retained and used for energy supply for so long as the development remains in existence.

Reason:

To ensure that the development incorporates onsite renewable energy production equipment 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.

COMMERCIAL DELIVERIES AND COMMERCIAL WASTE COLLECTION RESTRICTION

(18) Unless otherwise agreed previously in writing with the Local Planning Authority, all commercial deliveries and commercial waste collection to the ground floor commercial unit 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.

REPORTING OF UNEXPECTED GROUND CONTAMINATION

(19) In the event that contamination is found at any time when carrying out the development hereby approved 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. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archeological sites and ancient monuments;

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

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

Where remediation is necessary a remediation scheme must be prepared, which 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.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MECHANICAL EXTRACTION PLANT HOURS OF OPERATION

(20) No mechanical extract ventilation system or other mechanical plant shall be operated on the premises outside the following hours:-

Monday to Sunday 08.00 - 23.00 hrs

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

MECHANICAL EXTRACT VENTILATION DETAILS

(21) Prior to commencement of development, the applicant shall provide the Local Planning Authority with plans and specifications (including siting and design) in respect of any proposed mechanical extract ventilation system for the ground floor commercial unit, which must be approved for use in writing prior to the installation of any such equipment.

Prior to submitting the report, the applicant should carry out a noise impact survey to establish current background levels and submit a report detailing the results of the survey and the likely impact on noise the mechanical extract ventilation system will make to these levels to the local Planning Authority. The information should outline details of methods proposed to reduce any noise caused by the operation of the mechanical extract ventilation system to ensure that the noise emanating from equipment (LAeqT) does 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.

The information should include details of the design and route of the system including the ducting, and the proposed methods for reducing vibration and noise caused by the operation of the system, including sound attenuation measures to prevent noise and vibration transmission through the system and the building fabric itself, together with details of methods to eliminate or reduce to an acceptable level cooking smells, and should include confirmation of any odour control methods proposed for use in conjunction with the system, i.e., filtration systems, odour neutralising systems, etc.

The approved scheme shall be implemented in accordance with the approved details. Any alteration or variation to the equipment should receive the prior written approval of the Local Planning Authority.

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

MECHANICAL PLANT DETAILS

(22) Prior to use of the ground floor commercial unit commencing, the applicant must provide the Local Planning Authority (LPA) with plans and specifications in respect of any proposed mechanical plant, such as air conditioning or refrigeration condensers, or other similar equipment, which must be approved for use in writing by the LPA prior to the installation of any such equipment.

The applicant should carry out a noise impact survey to establish current background levels and submit a report detailing the results of the survey and the likely impact on noise the mechanical plant will make to these levels taking account of the cumulative effect of the mechanical extract ventilation plant to the local Planning Authority. The information should outline details of methods proposed to reduce any noise caused by the operation of the mechanical plant to ensure that the noise emanating from equipment (L_{AeqT}) does not exceed the background noise level (L_{A90}) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the facade of the nearest residential property.

The approved scheme shall be implemented in accordance with the approved details. Any alteration or variation to the equipment should receive the prior written approval of the Local Planning Authority.

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

NOISE

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

Prior to any occupation of the development, the developer shall submit, for written approval by the LPA, a verification report proving that the dwelling meets the aforementioned criteria.

Reason: To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance from commercial users of West Hoe Park to comply with policies CS22 and CS34 of the adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

USE OF THE OUTDOOR AREA (24)

(24) The outside seating area shall not be used by customers outside the hours of 0800 to 21:00, other than for use as a designated smoking area. The siting and size of the smoking area shall have been previously submitted to and agreed in writing with the Local Planning Authority and shall thereafter be limited to the approved area.

Reason

To protect the amenity of the residents to comply with policies CS22 and CS34 of the adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

TRAFFIC REGULATION ORDERS

(25) No development shall commence on site until such time that the applicant has made an application, including all necessary costs, for the introduction of all appropriate and related Traffic Regulation Orders to the City Council, as the Highway Authority, unless otherwise agreed. Furthermore no part of the building shall be occupied until the required works have been completed in accordance with details to be agreed by the Highway Authority.

Reason: in the interests of highway safety and in accordance with adopted Policy CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MOD EXPLOSIVES SAFEGUARDING

(26) No development shall be commenced until a report (to include detailed technical and structural drawings) has been submitted to and approved in writing by the Local Planning Authority providing verification that the development has been designed to withstand structural collapse or damage that could cause critical injury, in the event of an explosion within the statutory explosive safeguarding zone surrounding Plymouth Sound.

Prior to use of the development commencing, the applicant shall provide written confirmation verifying that the building has been designed and constructed to the above criteria unless otherwise agreed previously in writing with the Local Planning Authority and the approved details shall thereafter be so retained and maintained unless the written consent of the Local Planning Authority is given to any variation.

The use of an experienced blast consultant is recommended.

Reason:

The site of the proposed development falls within the outer statutory explosive safeguarding zone surrounding Plymouth Sound. All buildings within this zone should be 'non-vulnerable' that is of robust construction and design, so that should an explosive incident occur, buildings nearby will not collapse or sustain damage that

cause critical injury to the occupants. Further information is therefore required to demonstrate that the development is not a vulnerable structure in accordance with adopted Policy CS02 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - CODE OF CONSTRUCTION

(1) 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, 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 REQUIRED

(2) No work within the public highway should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. The Applicant should contact Plymouth Transport and Highways for the necessary approval.

INFORMATIVE - APPROVAL REQUIRED FOR WORKS TO HMPE

(3) This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The Applicant should contact Plymouth Transport and Highways for the necessary approval. Precise details of all works within the public highway must be agreed with the Highway Authority and an appropriate Permit must be obtained before works commence.

INFORMATIVE - SECTION 38 AGREEMENT REQUIRED.

(4) Any of the roadworks included in the Application for adoption as highways maintainable at public expense will require further approval of the highway engineering details prior to inclusion in an Agreement under Section 38 of the Highways Act 1980.

INFORMATIVE - EXCLUSION FROM RESIDENT PARKING PERMIT SCHEME

(5) The applicant should be made aware of the fact the development will be excluded from obtaining permits and visitor tickets, including business tickets, for use within the resident parking scheme, as existing and as proposed.

INFORMATIVE - GREASE SEPARATION

(6) The applicant is recommended to consider the fitting of a grease separator within the kitchen of the ground floor commercial unit. Building Regulations doc. H states that drainage serving kitchens in commercial hot food premises should be fitted with a grease separator, complying with prEN1825-1:2004 and designed in accordance with prEN1825-2:2002 or other effective means of grease removal.

INFORMATIVE - FOOD HYGIENE AND SAFETY ADVICE

(7) The applicant is strongly recommended to contact the Food Safety and Standards Team, Public Protection Service, prior to finalising plans for and commencing work on the internal layout of the commercial unit to ensure that the layout, equipment and facilities meet with the requirements of health and safety, and food law.

The applicant is urged to visit the pages of the food safety and standards team on the following link for further information and to access a food premises registration form <http://www.plymouth.gov.uk/homepage/environmentandplanning/foodsafety.htm>

CUSTOMER TOILETS

(8) The developer is reminded that toilet and hand washing facilities must be provided for use by customers as well as staff in the commercial A3 unit, in order to meet the provisions laid down in Approved Document G and BS 6465-1:2006 & A1:2009. The aforementioned documents should be referred to in order to determine the numbers of facilities required in the commercial A3 unit based on the number of anticipated customers and staff. The facilities should be adequately ventilated, with a minimum of 15 air changes per hour, to remove stale air and odour.

INFORMATIVE - NOISE INSULATION

(9) As noise insulation works can be costly after developments are completed, it is advised that in order to meet the above criteria a noise assessment is carried out to assess the additional level of insulation required to meet the required standard prior to development. This may reduce costs after the development has been completed.

INFORMATIVE - GREEN ROOF MANAGEMENT PLAN

(10) Taking into account the exposed waterfront location, the developer's attention is drawn to landscaping conditions 7 and 8 and is asked to give particular attention to ensure an adequate management regime is put in place for the ongoing maintenance and management of the proposed green roof.

INFORMATIVE - PAYMENT OF TRAFFIC ORDER COSTS

(11) The applicant shall be required to pay the costs associated with the preparation and advertisement of the Traffic Regulation Orders and then implement, as required, the amendments to the on-street car parking bays. The required sum shall not exceed £10,000.

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 development on residential properties; The impact of the development on the Hoe Conservation Area; The impact of the development on West Hoe Park and the impact of the development 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:

PPG13 - Transport
PPG17 - Sport and Recreation
PPG24 - Planning and Noise
PPS3 - Housing
PPS9 - Biodiversity and geological conservation
PPS1 - Delivering Sustainable Development
PPS22 - Renewable Energy
PPS23 - Planning & Pollution Control
CS28 - Local Transport Consideration
CS32 - Designing out Crime
CS33 - Community Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS22 - Pollution
CS13 - Evening/Night-time Economy Uses
S18 - Plymouth's Green Space
CS19 - Wildlife
CS20 - Resource Use
CS21 - Flood Risk
CS03 - Historic Environment
CS01 - Sustainable Linked Communities
CS02 - Design
CS15 - Housing Provision
CS30 - Sport, Recreation and Children's Play Facilities
PPS25 - Development and Flood Risk
SPD2 - Planning Obligations and Affordable Housing
SPD1 - Development Guidelines
SPD3 - Design Supplementary Planning Document
PPS5 - Planning for the Historic Environment
NPPF - Draft National Planning Policy Framework 2011