

ITEM: 01

Application Number: 04/01805

Applicant: Sainsbury's Supermarkets Ltd

Description of Application: Extension to retail foodstore and alterations to parking and service areas, retaining the existing vehicular access/egress arrangements (revision to original submission)

Type of Application: Full planning application

Site Address: Sainsbury's Supermarket Plymouth Road Plymouth

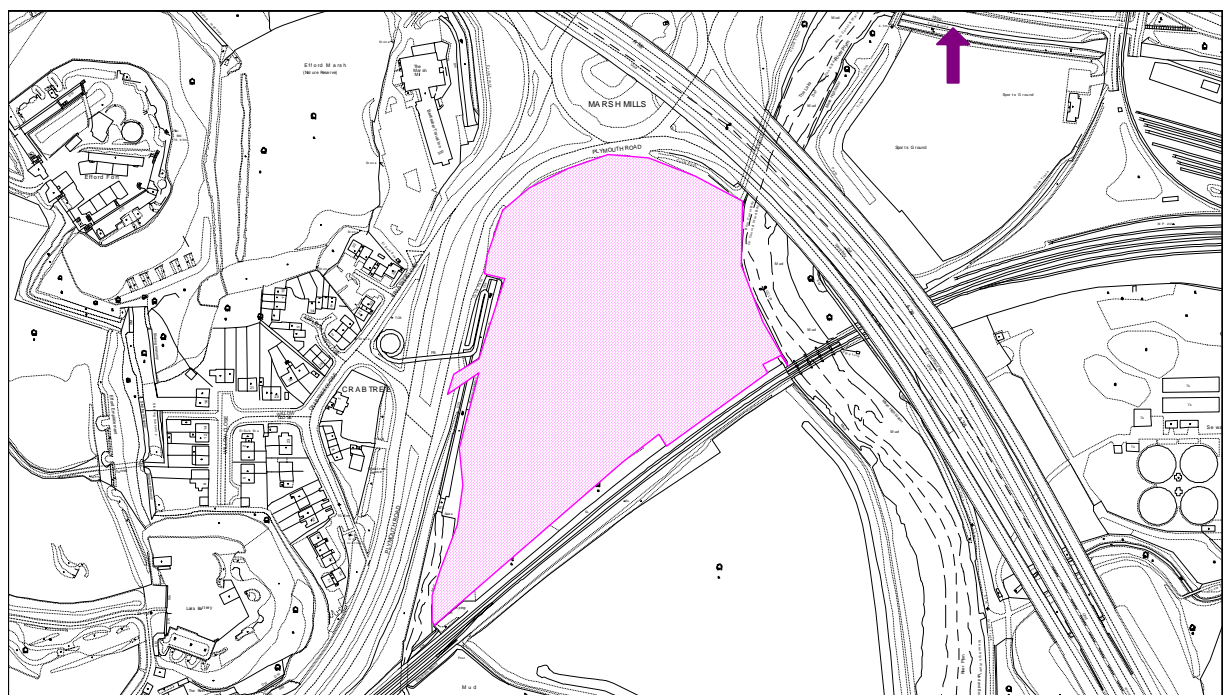
Ward: Efford And Lipson

Valid Date of Application: 28.10.2004

13 Week Date: **27.01.2005**

Decision Category: Major Applications

Case Officer : Alan Hartridge



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12th January 2005

Recommendation

In respect of the application dated **28th October 2004** and the submitted drawings: **Site plan A014371/A Site plan (1:500) PL01/B Ex.elev. 1828/PL04 Prop.plan 1828/PL07C Prop.elev 1828/PL08A Substn. fence 1828/PL09 Transport Assessment Flood Risk Assessment Retail Assessment** it is recommended to:

Minded to Grant subject to Section 106 Obligation - Delegated Authority

1. DEVELOPMENT TO COMMENCE WITHIN 5 YEARS

The development to which this permission relates must be begun not later than the expiration of five years beginning with the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990.

2. SPECIFIED USE RESTRICTION

The additional retail floorspace created within the extended building shall only be used for the predominant purpose of non-food comparison goods sales and uses ancillary thereto; and for no other purposes including any other purpose in Class A1 of the Schedule to the Town and Country (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason:

The Local Planning Authority considers that, in the particular circumstances of the case, the use of the extended supermarket for the purpose specified is appropriate but that a proposal to use the building for any other purposes would need to be made the subject of a separate application to be considered on its merits.

3. PROVISION OF CAR PARKING

The development shall not be occupied until the car parking areas shown on the approved plans have been drained and surfaced (in accordance with the details previously submitted to and approved by the Local Planning Authority), and those areas shall not thereafter be used for any purpose other than the parking of vehicles.

Reason:

To enable vehicles used by customers 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.

4. CYCLE PROVISION

The development shall not be occupied until space has been laid out within the site for at least 27 secure and covered staff cycle parking spaces and 20 customer spaces, in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars.

5. MATCHING MATERIALS

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reason:

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To ensure that the materials used are in keeping with the appearance of the existing building and the character of the area in accordance with Policy AEV31 of the adopted City of Plymouth Local Plan First Alteration 1996.

6. OPEN STORAGE

No goods, plant, machinery or trade refuse shall be stored in the open on the site, without the prior consent in writing of the Local Planning Authority.

Reason:

To safeguard the amenities of the area and the appearance of the site.

7. CONTAMINATED LAND

Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The said scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the when the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.

Reason:

There is a possibility that the site, or parts of it, are contaminated from past activities and, if so, this will need to be dealt with before the development takes place in accordance with Planning Policy Guidance Note PPG23: Planning and Pollution Control (Chapter 4 and Annex 10); and Policy AEV50 the adopted City of Plymouth Local Plan First Alteration 1996.

8. ERECTION OF SCREEN FENCING

The retailing use in the extended floor space hereby permitted shall not commence until the means of enclosure of the substation shown on the approved plan 1828/PL09 (or such other plan that shall have the prior written consent of the local planning authority) has been erected. Thereafter the said means of enclosure shall not be altered or removed without the prior written consent of the Local Planning Authority.

Reason:

To improve the appearance of the approach to the site, screen a neighbouring structure and safeguard the amenity of the area.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations which in this case are considered to be the suitability of the proposed scale of extension for the site, the impact on retailing in the city centre and district centres, traffic safety and the transport impact at a main gateway location, need to integrate the design and avoid any adverse impact on the local riverside environment , and the potential for increased flooding, the proposal is not considered to be demonstrably harmful to local amenities. In the absence of any other overriding considerations, and with the imposition of the specified legal agreement and planning conditions, the proposed development is acceptable and complies with the following policies of the Devon Structure Plan First Review 1996, the City of Plymouth Local Plan First Alteration 1996, the City of Plymouth Local Plan (1995-2011) First Deposit 2001 and relevant Supplementary Planning Guidance, Government Circulars and Planning Policy Guidance Notes as follows:

ASR1 - Hierarchy of Shopping Centres and Location of New Development

ASR13 - Large Food Stores - Development Criteria

ASR9 - Environmental Improvements (District Centres)

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ATR4 - Cyclists and Pedestrians
ATR5 - The Road Network
ATR8 - Proximity of Development to Public Transport
ATR18 - General Parking/Servicing Requirements
ATR3 - Pedestrianisation
AEV32 - Communication Corridors
AEV33 - Pedestrian Circulation
AEV38 - Landscaping and Enhancement Schemes
AEV39 - Enhancement of Main Access Corridors
AEV10 - Wildlife Movement
AIR2 - Provision for Infrastructure and Amenities
POL10 - Shopping hierarchy
POL11 - New Shopping Development
POL38 - Walking and Cycling
POL39 - Buses and New Developments
POL44 - Car, Cycle and lorry parking standards and requirements
POL48 - Highways capacity and safety
POL71 - Protection of Landscape Features, Habitats and Species
POL77 - Development settings
POL80 - Ease of movement
POL83 - Gateways and approach corridors
POL89 - Development in areas of flood risk
PPG6 - Town Centres and Retail Developments
PPG13 - Transport
PPG25 - Flood Risk

Section 106 Obligations

a contribution should be sought to improve pedestrian and public transport facilities at the Plympton Ridgeway shopping centre as follows

£60k comprising:

1. £20k for footway improvements outside post office
2. £20k crossing facilities in the car park (eg zebra crossing)
3. £20k for bus shelter (£18k plus installation).

OFFICERS REPORT

Site Description

Sainsbury's commenced trading in 1994 from its site in the south-east quadrant of the existing Marsh Mills gyratory . The store, with its impressive winged canopy, is a landmark building beside the Devon expressway and the Plym, defining a gateway to the city. The built complex presently comprises a foodstore (8,370 sq.m. gross floor area), a tourist information centre, petrol filling station and 581 space customer car park. There are 89 spaces for staff car parking at the rear of the store (to the south) beyond a dedicated service area. The application site directly affected by the proposed store extension comprises this service area and part of the access road leading to the staff car park .

The complex has pedestrian and cycle links with the locality, and lies adjacent to a main bus route.

Vehicles enter the complex via an ingress from the southbound carriageway of the A374 Plymouth Road and exit the site either by a signalized egress onto the Marsh Mills gyratory (outside peak hours) or from a give way egress onto the southbound carriageway of A374 Plymouth Road.

Proposal Description

The proposal is to increase the size of the store by approximately 20% (a 29% increase in retail floorspace). The applicants are concerned that the present store is not fully meeting modern customer expectations for a wider range of non-food items which are available in other large competing foodstores. This application is accompanied by a Retail Assessment, a Flood Risk Assessment and a Transport Assessment and follows from discussions with officers and the withdrawal of an application for a larger extension in May 2004 (Ref. 03/00692). That proposal would have necessitated roof-top staff car parking and extensive highway works.

The proposal involves three main elements:-

i. Alterations to the rear service road and yard, to provide space for a rear extension of the existing building. The applicants state that this additional space would allow for a broadening of the range of non-food goods for sale, solve problems of in-store congestion at peak times and enable more attractive product displays. The proposal would increase retail sales floorspace by 1393 sq.m (15,000 sq.ft.) with only a small increase in the amount of back-up floorspace. The overall size of the extension would be 1,672 sq.m gross (a 20% increase in gross external area) and there would be a re-structured rear service yard, a re-aligned service road and reduced staff parking.

The flat-roofed extension would be built in red faced brickwork to match that existing and clad with silver steel panels.

(Plans will be on display at the Planning Committee meeting).

ii. A new pedestrian/cycle 'Toucan' crossing would be provided across the vehicular entrance to improve access to the store from the bus stop and footbridge to the west. In addition, 48 cycle spaces will be provided close to the store entrance and cycle lockers for staff at the rear.

iii. Car parking alterations will take place to provide an increase in car parking spaces for customers (from 581 to 613 spaces) and reducing the number of spaces for staff at the rear (from 89 to 75 spaces). This would result in an overall increase in 18 spaces (2.7%).

Background History

91/0493 Outline permission to redevelop site by erection of a Superstore (40.000sq.ft net) incorporating retail units, coffee shop& restaurant with associated car parking and highway works.

The decision underwent Judicial Review .

S106 and 278 agreements required extensive highway improvements (including pedestrian footbridge and cycle way provision)tourist information facility, bird watching hide and contributions to nature conservation, crèche, public art, park and ride and employment land.

93/1154 Approval of above details - reserved matters (21st December 1993)

98/1313 Permission for extending the retail premises incorporating new sales area, restaurant and warehouse space , with associated changes in car park layout and access arrangements . This proposal related to a 14% increase in retail sales and a reduction of car parking spaces relative to the 1993 scheme.

03/00692 Application to extend the store to the rear with roof-top staff car park with associated changes in car park layout and access arrangements. Withdrawn May 2004. The proposal was for a 58.5% increase in retail floorspace.

Consultation Responses

Environment Agency - Awaited

Highway Authority - No objections subject to contributions and conditions (see report)Any further views will be reported.

English Nature - Awaited

Highways Agency -Awaited

Environmental Services - Request condition re gas monitoring and if necessary, mitigation.

Health and Safety Executive - Awaited

South Hams District Council - No objections

Network Rail - No objection in principle and asks for consideration to be given to conditions to safeguard their infrastructure

Representations

C. Woodman Plymouth Area Right to Ride Network- 2,Home Park Avenue, Peverell.

Concerned about lack of full information about the proposals to alleviate the problems for cyclists and makes detailed suggestions and comments mindful of the requirements of the Plymouth Cycle Strategy. (The present letter relates to the original scheme that involved extensive highway works and the suggestions have been carefully considered by transport officers).

A J Williams, 30, Longbridge Road, Marsh Mills .

Concerns about several matters - lack of use of rail to alleviate juggernaut access problems; lack of store being designed with a deck for parking to alleviate crowding at the entrance; lack of facilities to safeguard pedestrians from speeding cyclists who use access footpaths and crossings as 'rat-runs'; need to safeguard the bus stop.

G L Hearn on behalf of the regional Co-operative Society Ltd.

Object that the Retail Assessment approach does not accord with national or local planning policies and concerned that the proposal could increase the size of both convenience and comparison sales floorspace in the store affecting a catchment area that also includes a new replacement Tesco store at Lee Mill and a new extension to Asda at Estover. Damage could be caused to the Ridgeway, which contains a Co-op supermarket and 22 comparison units, and where the predominance of service-based units could be an indicator of a weakness in the health of the centre. The applicant's agent states that the existing Co-op store has suffered loss of trade as a result of the Sainsbury at Marsh Mills and that if the Council are minded to grant permission they would request the imposition of a condition that limits the store to its current level of convenience floorspace.

Observations

This application stands to be considered principally in the context of PPG6 Town Centre and Retail Development (and a subsequent supporting Ministerial Statement in April 2003) and PPG13 (Transport) and the following policies of the adopted Local Plan First Alteration 1996, - ASR1, and 13; ATR 4,5,8 and 18; AEV32, 33,38 and 39. There are also implications for the Ridgeway shopping centre -ASR9, ATR3 and AIR2 and nature conservation -AEV10. The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF.

The following FDLP policies are relevant: POL 10,11,38,39,44,48,71,77,80,83 and 89.

Retail Development

POL 10 allows development consistent with the shopping hierarchy and POL 11 supports such extensions to existing retail premises on suitable sites beyond the city centre and district centres if there is no adverse impact on those centres, a demonstrable need and compliance with the sequential approach to site selection, and if accessible to a choice of transport and if they would not cause undue traffic congestion or highway safety problems. These policies carry forward ASR1 and 13 in reflecting the objectives of national planning guidance (PPG6) and subsequent Ministerial advice.

It is considered that the scale of the extension now proposed is probably the maximum that this site can satisfactorily accommodate without requiring significant off-site works. It should result in qualitative improvements for customers in the eastern half of the city without giving rise to harmful effects on the commercial viability of / and investment in/ city centre schemes.

The Retail Impact assessment has regard to data from the Plymouth Shopping Study 2000 and expenditure data from the Sainsbury reward card scheme to define the catchment area. It concludes that the extension will not give rise to harmful effects on the vitality and viability of centres within the catchment area or beyond. Nevertheless, it has been suggested to the applicants that a contribution should be made to assist the health of the principle defined

centre in the catchment area - the Plympton Ridgeway District Centre (2.5m east of the Marsh Mills store).This approach is in line with ASR9 and ATR3 and AIR2 for the following reasons:

The current proposal is aimed at improving the depth of the range of existing product groups rather than expanding into new product areas. Such 'convenience durables' are found in the Ridgeway shopping centre. In this respect the applicants have demonstrated that the current proposal should have some impact upon the Ridgeway centre - albeit to a magnitude that they consider should not give rise to concerns about viability. Nevertheless the past extension to the superstore may have had some impact on the centre (Plan Ref 98/1313 and see comment above on behalf of the Co-op) and the applicants demonstrate that there will be some impact on turnover. It is therefore considered prudent to seek some contributions to improving the vitality of the shopping environment of that centre, and the applicant's agents have now agreed in principle to make some contributions to this (details have been sent to them). It is considered that, with such a contribution, and with appropriate conditions, this development need not have any detrimental impact on the vitality and viability of the city centre or existing district centres.

Highway issues

ATR5 specifies that development which would seriously prejudice the function of the local road network by exceeding its capacity, conflicting with the free flow of traffic or by giving rise to problems of highway safety will not be permitted. POL 48 carries this policy forward (also requiring a high standard of urban design). The applicants original submission was submitted with a transport assessment (required by POL47) and the entry and exit arrangements for vehicles , cycles and pedestrians have been examined closely by your transport officers and revised from the original submission in discussion with the agents. This revision does not now involve the construction of an all-movement signal controlled junction onto Plymouth Road, and the application has had to be re-advertised and consultees informed. Any outstanding views will have to be reported to your meeting.

Given that the proposal indicates only a 6% increase in traffic it is considered that the proposed store extension could be accommodated within the existing highway and access arrangements.

However, some capacity improvements could be made to the roundabout by staggering internal stop lines and moving signal poles but the applicants believe that additional expenditure by them is unwarranted unless the case can be made ,and discussions on this aspect should be complete by the date of your meeting when an update can be given.

Pedestrian links would be improved to the store from the Plymouth Road bus stop and pedestrian footbridge .The crossing of the access road will be the subject of a safety audit but gives no rise for concern.

The car parking and disabled parking standards would also be met in the scheme and as the provision of cycle parking should be encouraged given the proximity of the store to the cycle network the applicants have now agreed to make provision for 48 spaces, meeting current standards.

The above matters could be secured by appropriate conditions.

Urban Design issues

The proposed internal layout would, in itself, be an improvement to that existing, providing safer pedestrian circulation and an improved environment for cyclists and customer vehicles in accordance with ATR4, 8 and 18 and AEV33 (reflected in POL 38,39, 44 and 80).

Nevertheless the design and architectural quality of the development should be high as the site is an important gateway location on an important communication corridor where policies AEV32, 38, 39 and POL 82 and 83 are particularly relevant.

The quality of gateways into the city and key transport corridors has a major impact on the way that visitors and residents perceive Plymouth. The frontage design responds positively to

the importance of this area and the image of the city. The rear and north west elevation is austere but largely screened by planting. Nevertheless, some planting will be removed to facilitate the development and the applicants have agreed to enliven the proposed brick wall extension elevation seen from the petrol filling station area by part cladding it and by erecting a screen fence to reduce the visual impact of a substation building in this locality.

Flood Risk issues

The responsibility for safeguarding this site from the risk of flooding remains with the landowner and information upon the flood risk affecting the site and proposed mitigation measures have been submitted (in accordance with PPG25).. Confirmation from the Environment Agency is expected , but the proposal would not seem to conflict with Policy 89.

Summary

Subject to the consideration of any additional material planning considerations arising from the re-advertisement/re-consultation of the application, it is considered that the proposed scale and visual impact of the proposed extension and anticipated increase in vehicular generation associated with it, are acceptable and permission is warranted subject to compliance with conditions and to the completion of a legal agreement relating to off-site works for improvements at the Ridgeway District centre.

ITEM: 02

Application Number: 04/01970

Applicant: Mr T Turner

Description of Application: Outline application for the erection of 2 three storey blocks of flats containing 17 dwellings and car parking

Type of Application: Outline planning application

Site Address: 315-317 Tavistock Road Plymouth PL6 8AD

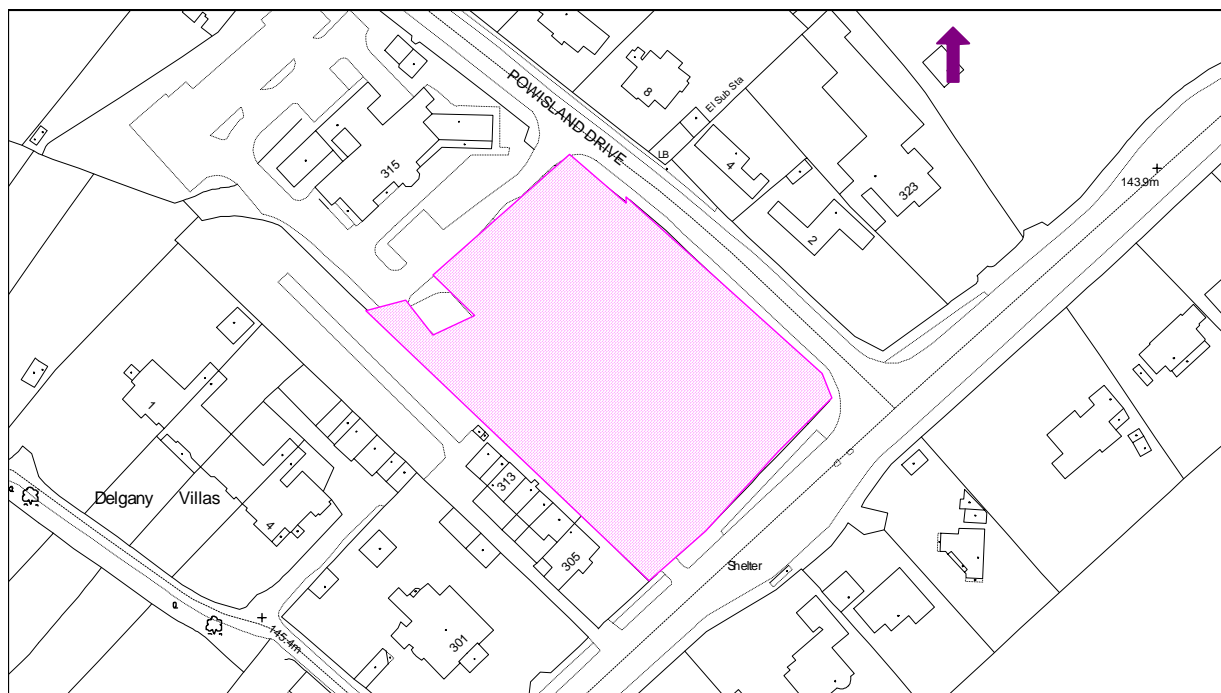
Ward: Budshead

Valid Date of Application: 25.10.2004

13 Week Date: 24/01/2005

Decision Category: Major Applications

Case Officer : Rob McMillan



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12th January 2005

Recommendation

In respect of the application dated **25th October 2004** and the submitted drawings: **location plan 03842/APP/14/RevB access** it is recommended to:

Refuse

1. HARM TO CHARACTER AND APPEARANCE

The proposed development by reason of its siting, size, bulk, height, massing and large parking area represents overdevelopment of this gateway site that is characterised by mature trees and it would harm the appearance of the area contrary to policies AEV31, AEV32 and AHR5 of the adopted City of Plymouth Local Plan First Alteration 1996 and policies 77 and 83 of the City of Plymouth Local Plan First Deposit 2001.

2. LOSS OF TREES

The proposed development involves the loss of two mature trees that the Local Planning Authority believe are still worthy of retention thereby diminishing the special character of this site contrary to policy AEV4 of the adopted City of Plymouth Local Plan First Alteration 1996 and policy 72 of the City of Plymouth Local Plan First Deposit 2001.

3. HARM TO RESIDENTIAL AMENITY

The proposed access and parking area so close to 305 - 313 Tavistock Road would harm the residential amenities of those properties caused by noise and disturbance from the comings and goings and door slamming associated with the use of the parking area and access. There would be overlooking from Block A to 313 Tavistock Road and the three storey buildings would have an overdominant impact on the outlook from 305 - 313 Tavistock Road. As such the proposals are contrary to policies AEV31 and AHR4 of Plymouth Local Plan First Alteration 1996 and policy 25 of the City of Plymouth Local Plan First Deposit 2001.

4. INCREASE DANGER ON ROADS AND CONGESTION

The flats hereby proposed are likely to result in an increase in the number of vehicular movements at the junction of Powisland Drive with Tavistock Road, a highway which is identified as a Primary National Route in the Devon Road Network and which carries a considerable volume of traffic. The Local Planning Authority considers that the increase in movements (and in particular right turn manoeuvres) at this junction arising from the development would give rise to conditions likely to cause:-

- (a) Prejudice to public safety and convenience;
- (b) Interference with the free flow of traffic on the highway
- (c) Unwarranted hazard to vehicular traffic

which is contrary to Policy ATR 5 of the adopted City of Plymouth Local Plan First Alteration and Policy 48.1 & 2 of the emerging City of Plymouth Local Plan First Deposit.

5. INADEQUATE PARKING

Inadequate provision has been made for the parking of cars of persons residing at or visiting the units hereby proposed. Vehicles used by such persons would, therefore, have to stand on the public highway giving rise to conditions likely to cause:-

- (a) Damage to amenity;
- (b) Prejudice to public safety and convenience;
- (c) Interference with the free flow of traffic on the highway

which is contrary to both Policy ATR 5 of the adopted City of Plymouth Local Plan First Alteration and Policy 48.1 & 2 of the emerging City of Plymouth Local Plan First Deposit.

Relevant Local Plan Policies

The following policies from the Devon Structure Plan, the Adopted City of Plymouth Local Plan First Alteration 1996 and the emerging City of Plymouth Local Plan First Deposit 2001 were taken into account in determining this application:

AEV4 - Loss of Existing Hedgerows, Trees or Wood
AEV31 - Townscape
AEV32 - Communication Corridors
AEV38 - Landscaping and Enhancement Schemes
AHR2 - New Residential Development
AHR3 - Housing Density
AHR4 - Privacy and Overlooking
AHR5 - Character of Residential Areas
ATR5 - The Road Network
ATR18 - General Parking/Servicing Requirements
POL25 - New Housing Development
POL26 - Established Residential Areas
POL27 - Residential Density
POL44 - Car, Cycle and lorry parking standards and requirements
POL48 - Highways capacity and safety
POL77 - Development settings
POL78 - Relationship of development to streets and public spaces
POL82 - Landscaping in development
POL83 - Gateways and approach corridors
PPG1 - General Policy and Principles
PPG3 - Housing
SPG9 - Refuse Storage Provision in Residential Areas
SPG11 - The Provision of Children's Play Space within New Residential Development

Section 106 Obligations

None as recommended for refusal.

OFFICERS REPORT

Site Description

The site is on the north west side of Tavistock Road at the junction with Powisland Drive and is 0.36 ha. It is in a residential area surrounded by dwellings with newly built houses on the former ambulance offices site opposite the site to the north west on the other side of the new access road. 305-313 Tavistock Road are 3m in from the south western boundary with windows overlooking the site. The site is well stocked with mature trees that are the subject of Tree Preservation Order 208. There is a low stone wall and laurel hedge fronting Tavistock Road, a 1.8m high stone wall facing Powisland Drive and a hedgebank trees and laurel hedge on the south western boundary.

Proposal Description

The application is in outline with the means of access to be determined at this stage. It is for the demolition of the dilapidated lodge and erection of two three storey , blocks of flats containing 17 dwellings. This would involve the felling of two protected trees. There are illustrative plans accompanying the application. The larger block would face Tavistock Road and would be 36m long by 12m deep by 12m high. The other would be sited next to the turning head and would be 17m long by 12m deep by 11m high. Access would be just past the turning head close to the south western boundary. There would be 19 parking spaces, including 3 access spaces in the south western part of the site.

Background History

Adjoining site to north west

00/01051 - OUTLINE -Redevelop part of site of former Westcountry Ambulance Services Trust HQ by erection of seven detached dwellings and garage (including demolition of existing building) - GRANTED subject to a S106 Obligation. Subsequent detailed approvals were given for the 7 houses.

Application site

01/00228 - FULL - Demolish lodge and redevelop site by erection of detached dwelling and garage (including enclosure of land to form curtilage) including details of siting and access - GRANTED.

01/01706 - FULL - Erection of detached dwelling and garage within parkland area - GRANTED.

01/01707 - FULL - Erection of detached dwelling and garage within parkland area - GRANTED.

301-303 Tavistock Road

03/02147 - OUTLINE - Demolition of existing building and erection of 5 houses - GRANTED.

04/01518 - RESERVED MATTERS - Erection of 5 houses - WITHDRAWN.

Consultation Responses

Environment Agency - No comments received.

Plymouth City Airport - No objection in principle.

Life Long Learning - The nearby schools have sufficient capacity and no education contribution is required.

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Highway Authority - Objects for 2 reasons: first on the increase in traffic at a congested part of the city at a difficult junction; and second inadequate parking. These are expanded in the report.

Environmental Services - No comments received.

Representations

There are 22 letters of representation including one on behalf of 4 residents, 2 of whom also wrote themselves. They object for the following reasons:

1. The existing permissions for 3 houses is acceptable, but the proposal for 2 three storey blocks of flats would be overdevelopment and out of keeping with the area characterised by large houses;
2. loss of protected trees;
3. inadequate parking would lead to more on-street parking exacerbating existing problems partly caused by nearby workers parking on the surrounding roads;
4. will add to the existing congestion on Tavistock Road and Powisland Drive;
5. increased danger on the highway especially as the new road does not have footpaths;
6. disturbance and noise from the parking areas;
7. overlooking and loss of privacy;
8. loss of light;
9. possible loss of boundary hedge and its screening effect;
10. the development is too high;
11. when they made enquiries to the planning department they were told that they could not build 3 storey houses on the adjoining site;
12. loss of skyline;
13. the same tree consultant advised them that their protected trees could not be felled: how can his opinion vary so?
14. loss of wildlife;
15. there would be too many refuse bins that would be unsightly;
16. object to the new gateway opposite their home, loss of privacy and loss of part of a good wall;
17. inaccurate information in the documents;
18. there is too much development nearby; there should be a ban on development for say 25 years; and
19. property devaluation.

DEBRA wrote objecting on similar grounds of:

1. increase in traffic;
2. inadequate parking;
3. loss of trees; and
4. out of character; and harm to the quality of life and environment

The applicants state that:

1. The planning and tree officers' original comments were not encouraging;
2. The development would be a better use of the land;
3. It would serve the housing need of the developing employment area of Derriford;
4. The site would be better served by the trees being managed communally rather than in private gardens;
5. The development although more intensive would be set around a high quality treed space;

6. They thought from informal transport officer comments that there would not be traffic objections;
7. The proposal follows PPG3 and will be a more efficient use of land.

Observations

The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF.

The main issues with this application are: the planning history; impact on the trees; effect on the appearance and character of the area; impact on residential amenity; and transport and highway matters.

Background

When the application for the adjoining site was considered in 2000 (reference 00/01051) the committee report considered the future of the land the subject of this application. It stated that the lodge, (that has fallen into a derelict state), could be extended or redeveloped but officers were 'reluctant to consider further development on the remaining land (ie the current application site) unless wholly satisfied that the landscaped grounds would remain unaffected.' The LPA sought a S106 Obligation to prevent development of the open land and its proper management. The applicants did not agree to this and the eventual obligation relates only to the management of the land. The applicants stated that they were examining the possibility of some limited development in addition to replacing the Lodge.

They achieved this receiving permission for 3 detached houses within the current application site in 2002. Some could argue that the site should only be developed for two houses to retain its parkland setting of mature trees but in 2002 the LPA felt that the site could accommodate three houses and retain its character. This forms a basis on which to compare the current application. Many of the local residents object to the development of the site with flats. Officers do not think that flats would be harmful in principle but that the application raises several problems.

The current proposal is for an entirely different scheme for seventeen flats in three storey blocks. The applicants sought officers' opinion before making this application who advised that it would be received unfavourably for the reasons set out below. The main advantage of the proposal is that the density would increase from eight dwellings per hectare (dph) to 47dph. This is line with the broad aims of PPG3 that seeks to achieve a more efficient use of land and encourages densities of 30 - 50 dph. But paragraphs 52 -53 stress the importance of retaining existing trees and shrubs and open space.

Trees

The application proposes the felling of two important protected trees, the dominant Corsican Pine and a beech. The applicant's tree consultant states that these have 'Safe Useful Life

Expectancy' (SULE) of 5 - 40 years and are in poor condition. The Council's tree officer does not agree that they have to be removed and states that the LPA have agreed to the removal of a number of trees but that this additional loss is not necessary and would harm the character of the site. The loss of important trees worthy of retention would be contrary to adopted local plan (FALP) policy AEV4 and draft first deposit local plan (FDLP) policy 72.

Character and appearance

The site is on a main gateway approach to the city at a prominent site. Its character is one of open land and mature trees with a small lodge. This will be compromised in part by the approved development. The applicants argue that the proposed arrangement with communally managed open space would retain the character more satisfactorily than in private gardens. But the three houses would have more space around them, entail a lower site coverage and be two storey in height and so considerably lower than the proposed three storey blocks of flats. The south west part of the site would comprise a large area of hardsurfacing to provide parking. The officers opinion is that there would be greater retention of the site's intrinsic character with the approved scheme compared with this proposal.

The application would harm the appearance and character of this gateway site compared with the permitted scheme contrary to FALP policies AEV31 and AEV32 and FDLP policies 77 and 83.

Residential amenity

There are two main problems associated with residential amenity. The approved development has access and parking for two houses on the south western part of the site adjoining 305 - 313 that are set in only 3m from the boundary. The proposal will have vehicular access for all 17 flats and 19 parking spaces. The adjoining houses have windows facing the site that in the main are kitchens and bathrooms but there are some habitable rooms too. The disturbance caused by the comings and goings and door slamming would harm their residential amenities contrary to policy AEV31.

The smaller block is re-orientated compared with the approved house so that it faces the adjoining houses at far less of an acute angle. There would only be a 13m gap between No 313 Tavistock Road and the smaller block. There would be an undue loss of privacy and overdominance contrary to policies AHR4, AEV31 and 25.

Highways and parking

Tavistock Road suffers from heavy congestion and several accidents have been reported at the junction of Powisland Road and Tavistock Road. When permission was granted for offices on the adjoining site, (now the seven new houses), there was a S106 Agreement controlling the number of vehicular movements. The Transport officer has worked out from trip rate survey data that the movements from the seven new houses is greater than those from the previous offices. The proposed flats could generate up to 130 further movements.

It is likely that many of the residents would wish to turn right into Tavistock Road which is a difficult manoeuvre. This would give rise to additional hazard, harm to public safety and congestion on the highway contrary to policies ATR5 and 48.

The flats would have 2 bedrooms and in this suburban location residents would rely on their cars. 19 spaces are provided but 25 are required. There would likely to be additional on-street parking harmful to public safety, the free flow of traffic and amenity contrary to policies ATR5 and 48.

Summary

The proposed development would harm the appearance and character of the area, cause loss of trees, adversely affect residential amenity, result in danger on the highway and congestion arising from the increased traffic generation and inadequate parking contrary to adopted and emerging policies. For these reasons it is not acceptable.

ITEM: 03

Application Number: 04/02011

Applicant: Mr And Mrs P Treble

Description of Application: Change of use of No.49 from a dwellinghouse to a children's day nursery on the ground floor with owners flat at first floor level including formation of a parking area to the rear of Nos. 47 and 49

Type of Application: Full planning application

Site Address: 47-49 Alma Road Plymouth PL3 4HE

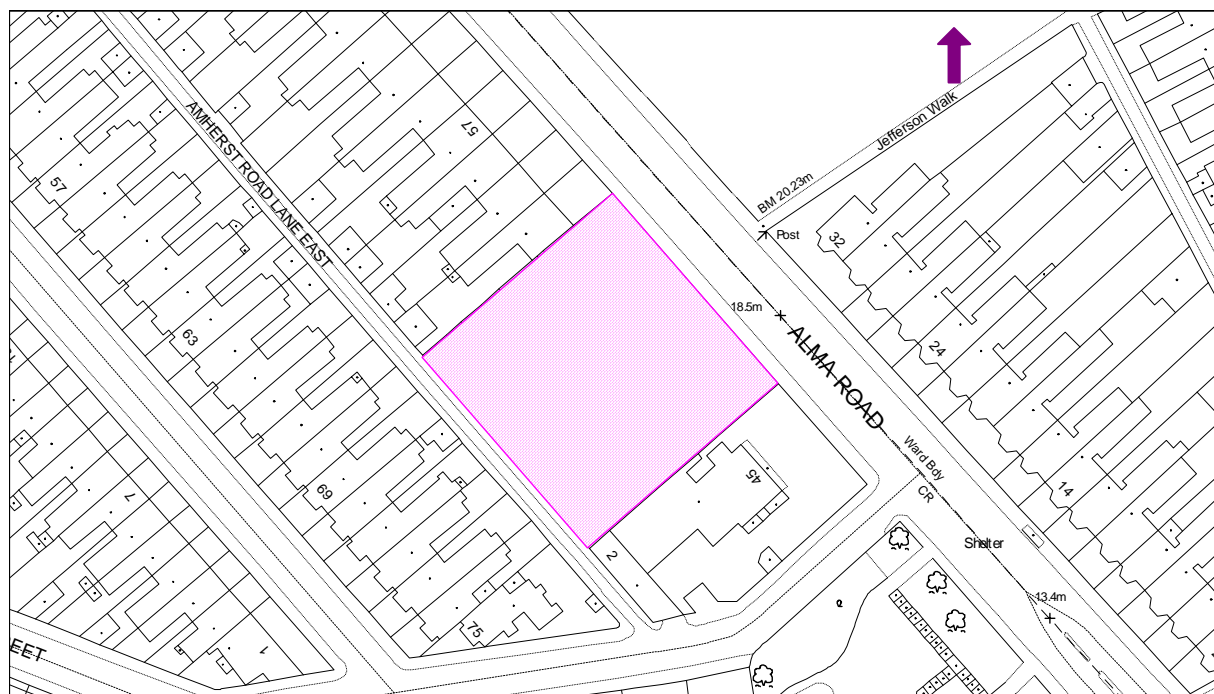
Ward: Stoke

Valid Date of Application: 02.11.2004

8 Week Date: **28.12.2004**

Decision Category: Head of Planning & Regeneration Referral

Case Officer : Amy Luxton



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12th January 2005

Recommendation

In respect of the application dated **2nd November 2004** and the submitted drawings it is recommended to:

Refuse

1. NOISE AND DISTURBANCE

In the opinion of the Local Planning Authority the proposed vehicle access and parking arrangements at the rear of the site, fronting the rear access lane would result in intensive periods of noise and disturbance arising from the comings and goings of staff and clients accessing the proposed nursery. The proposed development would thereby have a seriously detrimental impact on the living conditions of residents in the adjoining and surrounding properties contrary to policy AEV49 and ACR12 of the City of Plymouth Local Plan First Alteration and Policy 57 and 87 of the City of Plymouth Local Plan First Deposit.

2. VISUAL HARM

In the opinion of the Local Planning Authority the proposed parking alterations would open up a large section of the stone wall which forms the rear curtilage enclosure to the rear lane, thereby causing harm to the visual qualities and character of the rear lane and creating potential security problems contrary to criteria outlined in AEV31 and AEV47 of the City of Plymouth Local Plan First Alteration and policies 77 and 81 of the City of Plymouth Local Plan First Deposit

Relevant Local Plan Policies

The following policies from the Devon Structure Plan, the Adopted City of Plymouth Local Plan First Alteration 1996 and the emerging City of Plymouth Local Plan First Deposit 2001 were taken into account in determining this application:

OFFICERS REPORT

Site Description

Located in the PennyComeQuick area of the City just north west of the City Centre. The site comprises two detached residential properties (Nos 47 and 49) situated on the southern side of Alma Road which is a busy dualled arterial route for the City. On the opposite northern side of Alma Road the site faces part of Central Park recreation area and a site cleared for residential development. To the south, west and east the site is surrounded by residential properties with a narrow back lane bounding immediately to the west.

Proposal Description

Change of use of No 49 from a dwellinghouse to a childrens day nursery (application details suggest up to 50 children) on the ground floor with owners flat at first floor level, together with alterations to provide parking area to the rear of Nos 47 and 49.

Background History

04/01029 - FUL - Change of use of dwellinghouse to a children's day nursery on the ground floor with owners flat on first floor and associated access alterations and parking area fronting Nos 47 and 49 Alma Rd. REFUSED

04/00423 - FUL - Change of use of dwellinghouse to a children's day nursery on the ground floor with owners flat on first floor. WDN

Consultation Responses

Environment Agency - No comments received

Highway Authority - No highway safety objection. Conditions suggested

Environmental Services - No objection although health and safety issues regarding the access arrangements would need to be confirmed

Access Officer - Further details required of DDA compliance

Police Architectural Liaison Officer - No objection, however concerns regarding layout and detail

Representations

Five letters of representation have been received raising concerns about the increase activity in the rear lane and traffic generation, noise from children playing in the garden, danger to pedestrians, worsening of existing parking problems in and obstruction of back lane. Non planning issues such as deeds restrictions have also been raised.

Observations

Determination of this application was deferred at the last Planning Committee on the 22nd December to enable members to undertake a site visit. This took place on the 29th December and the application is now brought back to Committee for determination.

The current application comprises a further revised application which seeks to address problems identified as part of the previous applications (one withdrawn and one refused). Concerns in the first application centred on No 49 and the adverse highway safety implications associated with proposed access alterations onto Alma Road. The recently refused revised scheme sought to amend the access and parking alterations onto Alma Road by incorporating the frontage of No 47 as well as 49, to provide an extended access and

parking area across both property frontages. The most recent refusal was issued on the basis of adverse amenity concerns as well as remaining concerns about the highway safety implications.

AEV31 - In visual terms it is considered that the proposed rear lane access and parking bay alterations would open a 17m wide swathe of hardstanding area aside the lane thereby degrading the intimacy and character of this part of the lane and resulting in the loss of a sense of enclosure currently evident within the lane at this point. Openings and hardstandings in other parts of the lane have already been created where the adverse visual impact of such alterations is already visually evident. The adverse visual impact on the character of the lane would be significant in causing visual harm.

The proposal to provide access to the nursery from the rear lane section mostly aside the rear garden of the adjoining dwelling at No 47 is considered to present a significant degradation of the living conditions of that property in addition to the more general adverse impact of the comings and goings of the intensive nursery activity at dropping off and picking up times which is also considered to have an adverse impact on the living conditions of residents backing the site at Amherst Road (rear bays within 6m of the lane). The applicant has offered to manage the spread of drop off and picking up activity and has argued that activity at an 8am start, through to early evening closing is not at noise sensitive times. However it is considered that the degree of noise and disturbance arising from the intensive periods of commercial activity (as compared to the level of activity normally expected to be generated by surrounding dwellinghouse activity) would be significantly and unreasonably increased and cannot be adequately mitigated by management of the premises. The intermingling of commercial activity so close to the adjoining residential property would be intrusive and seriously harm the living conditions and amenities of residents, contrary to policy. No amenity objections arise from the proposed new rear conservatory and it is considered that this substantial property and grounds is capable of adaptation and conversion to adequately accommodate the facilities required for .

ATR5/18 - The proposed rear access and dropping off area is considered to provide sufficient space for vehicles for dropping off - staggered times, and limited staff parking associated with the proposed use. Conditions are suggested to control and manage the traffic generation and parking demands of the use.

AEV47 - However concerns remain regarding security implications of the entry /exit to the premises from a poorly lit rear lane, lacking natural surveillance and good visibility from the property proposed as the nursery. Additional information about the relative levels, boundary provision and surveillance of the parking court from the subject property (no 49) has been requested from the applicant. No further plans have yet been received, although the applicant has stated that the parking area will be lit and overlooked from the outbuilding used as an office to the rear of No 47 (occupied by a relative of the applicant). In planning terms No 47 is a completely separate planning unit which could be sold independently of No 49 and therefore offers only minimal surveillance which the Police have advised should be better and more closely associated with No 47 itself.

AEV49 - Despite the location of the premises adjoining residential property no noise objections have been raised environmental health officers. The location of the site adjoining the busy road provides a consistently noisy environment and it may be difficult even in the quieter rear garden area to argue that harm would arise from the noise of childrens play activities, which could in any case be controlled by condition about the times and length of such outside activities. No objection is considered to be sustainable on these grounds. The premises is substantial and detached, and the scale of the proposed use in the circumstances

of the site, is not considered to present significant general amenity problems, other than those highlighted in relation to the activity associated with the use of the rear access and parking area. It would appear that under Building Regulation control a scheme of self containment would be required between nursery and the residential accommodation above. It would be possible to condition the use of the flat above to be linked with the nursery below.

AEV45 - The property appears to be capable of making provision for disabled access, although the further levels drawing and internal details would be required. This could be controlled by negative condition and would be required in parallel to the applicant's duties under part 3 of the DDA.

ACR12 While it is accepted that the City needs childcare facilities such as those proposed by this application, the merits of the application are entirely site specific, depending on the one of the key assessments has to be whether the site is capable of being safely accessed now demonstrated by the application. Further the proposed access/ setting down area rear of Nos 47 and 49 is considered to present significant adverse amenity problems. The applicant has not submitted evidence of the particular need for childcare facilities in this location and the general benefit of such community provision is not considered to over-ride these very significant amenity concerns in this case.

The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF. Policies 26,44,48,57,87 apply.

ITEM: 04

Application Number: 04/02123

Applicant: Pemberley Developments

Description of Application: Demolish existing building and erect 15 residential apartments, with associated car parking and relocated access

Type of Application: Full planning application

Site Address: Site At Friars Lane Plymouth

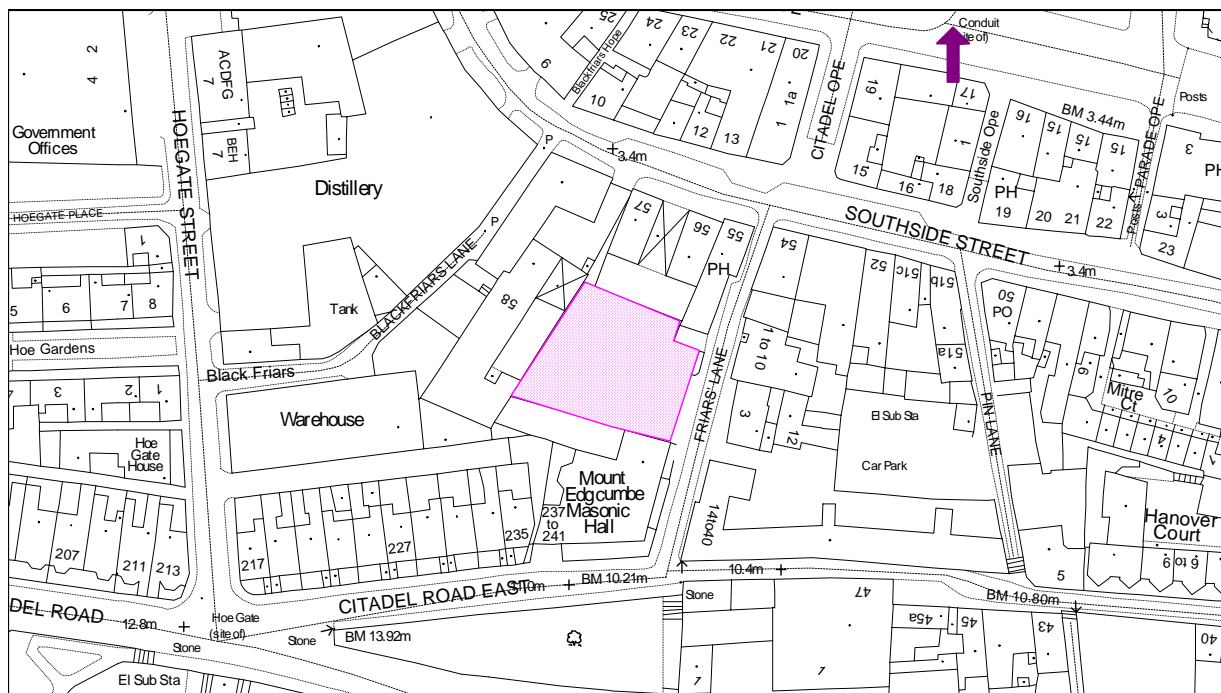
Ward: St Peter And The Waterfront

Valid Date of Application: 17.11.2004

13 Week Date: **16.02.2005**

Decision Category: Major Applications

Case Officer : Alan Hartridge



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12th January 2005

Recommendation

In respect of the application dated **17th November 2004** and the submitted drawings: **S101 S02 S103 SK111 SK112 SK113 SK114 SK115 SK116 SK117 SK120 SK121 SK122 SK123 and Design Statement; SK124 dated 25th November; SK110A Site layout plan dated 22nd December** it is recommended to:

Grant Subject to Section 106 Obligation

1. DEVELOPMENT TO COMMENCE WITHIN 5 YEARS

The development hereby permitted shall be begun before the expiration of five years beginning from the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990.

2. LANDSCAPING PROPOSALS

No development shall take place until full details of both hard and soft landscape works and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels ; schedule of plants, plant sizes and proposed numbers, means of enclosure; hard surfacing materials; minor artefacts and structures (e.g. furniture, plant containers, lighting etc.); retained historic landscape features and proposals for restoration.

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policy AEV38 of the adopted City of Plymouth Local Plan First Alteration 1996.

3. LANDSCAPE WORKS IMPLEMENTATION

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

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policy AEV38 of the adopted City of Plymouth Local Plan First Alteration 1996.

4. DETAILS OF FLOODLIGHTING

Details of any floodlighting shall be submitted to and approved in writing by the Local Planning Authority before the building is occupied;. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the details of the development are acceptable to the Local Planning Authority and that they are in keeping with the standards of the vicinity.

5. PROTECTION OF HISTORIC CATACOMBS

No part of the development allowed by this consent shall be started until a detailed method statement for the protection and retention of the catacombs on the site has been submitted to, and approved in writing by, the Local Planning Authority. This statement to include detailed drawings including sections to show how the foundations will be formed so as to be offset

from the rear line of the catacombs and details of treatment to strengthen and waterproof the roof of the catacombs to enable the concrete slab base above to be used for car parking.

Reason:

To ensure that these features that make a positive contribution to the historic character of the area are safeguarded in accordance with PPG15 and policies AEV19 and 20

6. PROTECTION OF CHURCH WALL

A schedule of repairs, weatherproofing and structural support works as necessary to retain the former Chapel wall in situ shall be submitted to, and approved by, the LPA prior to any development works commencing .

Reason:

To safeguard an historic feature of importance to the historic character of the Conservation Area and in accordance with PPG15 and policies AEV19 and 20

7. PROGRAMME OF ARCHAEOLOGICAL WORKS

No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. Developers will wish to ensure that in drawing up a scheme, the timetable for the investigation is included within the details of the agreed scheme).

Reason:

In accordance with Policy AEV11 and 19 of the adopted City of Plymouth Local Plan First Alteration 1996.

8. FRONTAGE TREATMENT TO FRIARS LANE

The building shall not be occupied until a continuous footway, with a vehicle footway crossing facility, has been constructed along the site's frontage to Friars Lane. Details for the design of this footway shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any work on site.

Reason :

In the interest of public safety and convenience in accordance with the Policy ATR5 of the City of Plymouth Local Plan (First Alteration) and Policy 48 of the emerging Local Plan (1995 - 2011).

9. PARKING COURT DETAILS

Details of the levels and drainage arrangements for the parking court shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any work on site.

Reason :

In the interest of public safety and convenience.

10. CYCLE STORAGE

Occupation of the hereby permitted dwellings shall not commence until secure storage facilities for cycles has been provided within the building or site curtilage. Details of the said facilities shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any work on site.

Reason :

To ensure secure cycle storage facilities available for occupants in accordance with the requirements of Policies ATR4 and ATR18 of the City of Plymouth Local Plan (First Alteration) and Policy of the emerging Local Plan (1995 - 2011).

11. EXTERNAL MATERIALS

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 AEV31 of the adopted City of Plymouth Local Plan First Alteration 1996.

Informatives

1. Exclusion from Permit Parking Zone

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations which in this case are considered to be: loss of employment premises, impact upon architectural and historic character of the Barbican Conservation Area and the setting of a Listed building, the density of development and impact upon neighbouring properties and community facilities, the proposal is not considered to be demonstrably harmful to local amenities. In the absence of any other overriding considerations, and with the imposition of the specified planning conditions, and contribution to educational provision, the proposed development is acceptable and complies with the following policies of the Devon Structure Plan First Review 1996, the City of Plymouth Local Plan First Alteration 1996, the City of Plymouth Local Plan (1995-2011) First Deposit 2001 and relevant Supplementary Planning Guidance, Government Circulars and Planning Policy Guidance Notes as follows:

AEV14 - Character, Setting and Demolition of Listed Buildings
AER2 - Change of Uses of Existing Employment Areas
AEV20 - Preservation and Enhancement of Conservation Areas
AEV22 - The Barbican - Protection
AEV31 - Townscape
AHR3 - Housing Density
AHR4 - Privacy and Overlooking
AHR5 - Character of Residential Areas
ATR5 - The Road Network
AIR2 - Provision for Infrastructure and Amenities
POL2 - Existing employment sites and premises
POL25 - New Housing Development
POL26 - Established Residential Areas
POL27 - Residential Density
POL38 - Walking and Cycling
POL44 - Car, Cycle and lorry parking standards and requirements
POL60 - Children's play space
POL73 - Ancient monuments and archaeology
POL74 - Development affecting listed buildings
POL75 - Development in Conservation Areas
POL77 - Development settings

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POL78 - Relationship of development to streets and public spaces

POL81 - Personal safety and crime prevention

POL82 - Landscaping in development

PPG1 - General Policy and Principles

PPG3 - Housing

PPG15 - Planning and the Historic Environment

Section 106 Obligations

Contribution to both primary and secondary education provision-£11,032

(and standard Legal admin charge)

OFFICERS REPORT

Site Description

The site lies within the Barbican area of special architectural and historic interest and largely comprises the former Blackfriars Copy Shop - a single storey masonry building with a mezzanine floor and a basement along the northern side of the site. This building was built as a bacon factory in 1949. It later changed its' use to a butchers and then (in 1984) to a reprographics business. It has remained vacant for a year.

The Blackfriars Copy Shop building abuts a western boundary wall that represents the standing remains of the former Holy Trinity Church that was destroyed by bombing during 1941. The wall is part rendered and part exposed and the relief reveals features of the western wall of the church. To the west of the site, built against the remains of the Church at a lower level, is a refurbished public house that makes a feature of this boundary wall visible behind and above the bar (the Gog and McGog Weatherspoons).

Below the site, at the basement level beneath a concrete floor, are two access tunnels and small catacombs constructed in stonework with vaulted ceilings. These catacombs date from 1840 and once formal part of the Holy Trinity Church. Part of the sub ground floor space is circa 1950. This areas has been used for storage purposes in association with the building above. Although accessed from within the building, the catacombs also have an access door (emergency access) that is designed to lead off a courtyard (now in other ownership) to the north of the site. This is a residents' car park to serve a block of Southside Street 1950's/1960's retail units with flats above-and external terrace. The rear of the Queens Arms public house also lies to the north of the site.

The 4 storey Mount Edgumbe Masonic Hall lies beyond a small car parking area to the south of the site. To the east, across the narrow Friars Lane are a series of 4 storey residential buildings, some of 1960 origin and some created by refurbishment of stone warehouse (wrapping around to New Street). To the east, directly opposite the present entrance to the site is Trinity House a 4 storey early 18th century building, in office use. This is a Grade II Listed Building.

Proposal Description

The proposal to redevelop the site to provide 15 apartments (10 two-bed and 5 one-bed) with 9 residents' car parking spaces and a new vehicular crossing off of Friars Lane. The application is accompanied by an extensive design statement, and this highlights how the scheme has evolved to reflect the concerns of "interested parties" and to respect the character of the Conservation Area, (and associated national and local conservation policies), the setting of the Grade II Trinity House and structural and engineering requirements.

The proposal would involve constructing the new building at the southern end of the site to try to leave the catacombs intact with access to them for resident's storage. A water-resistant granite sett/block paver car park (an "inner courtyard") would roof the catacombs, and a parapet wall with planters would be provided along the northern boundary of this car park to screen car-headlight glare from causing nuisance to neighbouring residents (windows at the rear of the Southside Street flats to the north).

The proposal would involve the retention of the western wall of the Holy Trinity Church as a courtyard feature both day and night. A lighting scheme would be installed to light the feature wall and a "pilotis" area of car parking beneath the new building. The proposed building has been designed with two gable-ends onto Friars Lane, to give the impression of two buildings

that step down the ridge heights from the Masonic Hall to the Queens Arms (Plans will be on display at the Committee meeting).

The higher gable,(4 storey high), would comprise natural slate render and slate hanging, stepped in elevation. A pedestrian access way would lead to the rear of the Masonic Hall, and two doors would lead to several apartments from the Friars Lane frontage. The lower gable, 3 storeys high, would comprise white render. A gated vehicular access would give access to the inner courtyard, and it is now intended that the access will be suitably managed in the interests of security.(see appendix)

The building would be slate roofed. Western facing (and some eastern facing) flats would have "Julliette" aluminium balconies (no projecting platform) and northern facing flats would have balconies at a maximum of 600mm. Oriel windows would be introduced into the rear (southern) elevation to avoid overlooking of residential premises on Citadel Road East.

Background History

02/0441 Application treated withdrawn (January 2003) proposal for 26 flats and two offices below (basement area)

04/01147 and 1149 Applications for demolition of the former Blackfriars Copy Shop Building, retaining catacombs, and erection of building containing 15 residential apartments with associated parking and relocated access (Application withdrawn June 2004)

04/01222/CAC Conservation Area Consent for the demolition of the former Copy Shop Building with retention of sub floor voids (Application withdrawn July 2004)

Consultation Responses

Environment Agency - Awaited.

Highway Authority - Accepts that the intensity of residential use would be unlikely to generate anything significantly different from the existing commercial use, and could be an added advantage in that movements need not be concentrated and visits by commercial vehicles down Friars Lane would be reduced. Suggests conditions and an informative (re exclusion from the Permit Parking Zone).

Devon Fire and Rescue Service - No concerns.

Devon and Cornwall Constabulary (Crime Prevention/Architectural Liaison Officer) - Consideration should be given to controlled vehicular/pedestrian access gate.

Lifelong Learning - Education - should seek a S106 contribution for both secondary and primary education (on the basis of 10 two bed flats).

Representations

Southside Street

One retail business no objections, and two businesses and three residents have concerns about: -

- the effect on safety and security to the rear yard of 56 and 57 Southside Street (from residential (and possible storage of inflammables);
- the reduction in direct sunlight to the same yard;

- the effect on safety and security of rear service yard to Queens Arms during the redevelopment process.
- Suggests rear courtyard wall should be 1.8 m above finished car park level (rather than as shown);
- suggests restrictive covenants warranted re noise, washing not to be hung over railings, no offensive window displays, need for blinds, no appendages, need for courtyard wall to be maintained, (suggests windows and doors should be blocked up);
- inadequate car parking provision.

Friars Lane

Objection from psychotherapy service occupier of Trinity House (Eating Disorder Support): -

- Construction noise (intrusive and detrimental);
- Extra traffic generation;
- Loss of privacy and light

Citadel Road East

Objections from Masonic Hall: -

- Concern that proximity of site boundary and control of gate giving pedestrian access to the rear of the Masonic Hall;
- Concern that close proximity of rear (south facing) windows inhibiting any future development plans/options for redeveloping the Masonic Hall property. Suggests re-siting needed.

Observations

This application stands to be considered principally in the context of PPG1, 3 and 15 and the following policies of the adopted Local Plan First Alteration 1996 - AER2, AEV14, AEV20, AEV22, AEV31, AHR3, AHR4, AHR5, ATR5, AIR2

The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF.

The following FDLP policies are relevant: POL2,25,26,27,38,44,60,73,74,75,77,78,81,82.

Policy AER2 seeks to safeguard employment premises from redevelopment unless specific criteria have been met. The former occupier of the Blackfriars Copy Shop believe that the site is untenable as business premises. They have written advising that they relocated within Plymouth with no loss of staff to allow for an effective expansion of their business. They advise that the current building is too small and has vehicular access problems that hinder growing businesses. They consider that future office options could give rise to business/environmental problems and there has been no interest from potential occupiers.

It is considered that a well-designed residential redevelopment scheme on Friars Lane would accord with the national and local policies.

PPG3 sets out the Government objectives to promote more sustainable patterns of development and make better use of previously developed land. New housing should be well designed and the PPG encourages housing development, which makes more efficient use of land (between 30 and 50 dwellings/hectare). Policy AEV14 indicates that proposals that would be harmful to the character of a Listed Building, such as Trinity House, will not be permitted and Policy AEV20 indicates that all development in Conservation Areas require a high standard of design (also reflected in Policy AEV31) sympathetic to the character of the particular Conservation Area. Policy AEV22 indicates that a diversity of uses will be accepted in maintaining the Barbican as a place in which to live and work and to visit.

In this context, therefore, the principle of residential development on this site is acceptable if well designed in the context of its setting - an area of architectural and historic importance where development should not detract from the character of the Conservation Area or undermine the setting of the nearby listed building (in accordance with PPG15 and policy). It is appreciated that further development schemes might be designed in the future that might include land currently beyond the current application site. However, this particular scheme stands to be judged on its merits.

The higher the density of a scheme within the tight urban fabric of this Conservation Area, the greater the design skill required to provide a high quality solution. AEV31 indicates the design factors that need to be addressed in the relationship between new buildings and juxtaposition of surrounding buildings and spaces. The applicants demonstrate in the design statement how these issues have been addressed, and it is not considered that this proposal would be out of scale or character with its present surroundings.

It is considered that the proposed design in terms of scale, mass, height, street buildings rhythm plots size etc relates well to its context and the Council's Historic Environment Officer considers that the proposal suggests a subtle elevational approach that should result in a non invasive building which will sit comfortably within its Conservation Area setting and in relationship to the Listed Trinity House opposite. The materials are well related to the traditional built form of the Barbican.

Issues of amenity, aspect, prospect and sunlight, overlooking and visual and acoustic privacy, are more acute as density increases. The applicant has addressed a number of non-standard solutions to these issues, including local concerns about security and management (see Appendix 1). On balance, it is considered that, with appropriate conditions and management the scheme is one that should sit well with residential properties in the locality.

APPENDIX 1

Applicants agent's detailed comments received 22nd December 2004

1. The gate access to the courtyard space will be security coded and will be a sectional track security door (an inward opening gate cannot be used due to the required gradient of the vehicle access into the courtyard). Only residents will be able to open/close this door. The security door will be electrically operated and opened by a hand transmitter. We are willing to accept a condition on the approval subject to receiving details of the design of the sectional track security door. However the door will be semi transparent to allow views into the courtyard.

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2. The gated access to the courtyard space between the Masonic Hall and the proposal will be security coded. Only residents will be able to open and close the gate. The gate will be inward opening. We are willing to accept a condition on the approval subject to receiving details of the design of the gate between the proposal and the Masonic Hall.
3. As well as the integrated external lighting scheme, security access lighting will be provided for all main entrances to the proposal from Friars Lane and above all main flat entrance points within the proposal.
4. The basement area will be secured and maintained by an appointed maintenance company. The space will also be used as storage for the residents.
5. We are willing to accept a condition on the continuous footway subject to receiving further details, however we would draw to your attention that slate flags and granite kerb edgings with appropriate drop kerbs will be reinstated and utilised for the creation of the vehicle access point.
6. In addition to the 9 No cycle storage points located in the pilotis area cycle storage will also be available within the basement area.
7. At this stage of the application it is not possible to provide all material samples for the proposal. We would require more time to give due consideration to the materials to be put forward for this proposal. We are willing to accept a condition on the approval subject to receiving samples of suitable external materials.

ITEM: 05

Application Number: 04/02124

Applicant: Pemberley Developments

Description of Application: Demolition of former Blackfriars Copy building, with retention of basement level

Type of Application: Conservation Area Consent

Site Address: Site At Friars Lane Plymouth

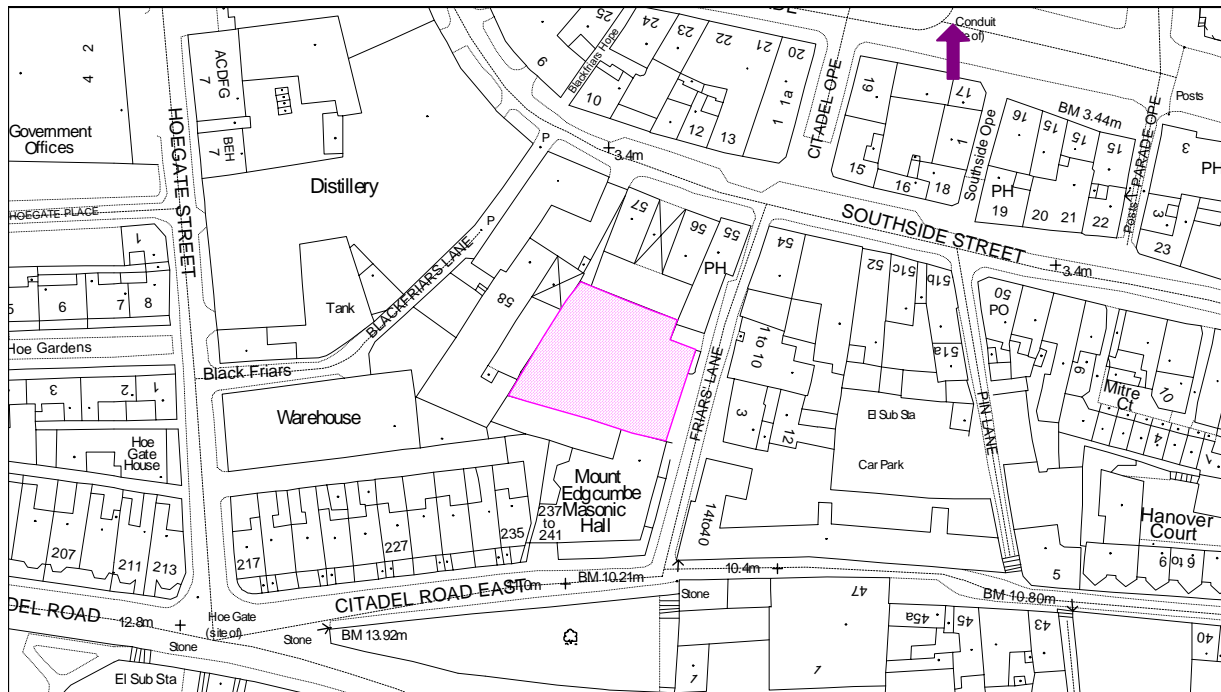
Ward: St Peter And The Waterfront

Valid Date of Application: 17.11.2004

8 Week Date: **12.01.2005**

Decision Category: Major Applications

Case Officer : Alan Hartridge



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12th January 2005

Recommendation

In respect of the application dated **17th November 2004** and the submitted drawings: **S101 S02 S103 SK110A site layout plan** it is recommended to:

Grant Conditionally

1. DEVELOPMENT TO COMMENCE WITHIN 5 YEARS

The development hereby permitted shall be begun before the expiration of five years beginning from the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990.

2. CODE OF PRACTICE DURING DEMOLITION

Before any demolition is commenced, a Code of Practice shall be submitted to and approved by the Local Planning Authority which shall indicate measures to mitigate against adverse effects of noise, dust and traffic generation during the proposed development. The Code of Practice shall indicate: -

- a. the proposed hours of operation of construction activities;
- b. the frequency, duration and means of operation involving demolitions, excavations;
- c. sound attenuation measures to be incorporated to reduce noise at source;
- d. details of measures to be taken to reduce the generation of dust;
- e. the routes of traffic to and from the site including any off site routes for the disposal of excavated material.

The Code of Practice shall be strictly adhered to during all stages of the demolition.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during demolition works and avoid conflict with Policy AEV49 of the adopted City of Plymouth Local Plan First Alteration 1996.

3. CONTRACT LINK TO REDEVELOPMENT

Demolition shall not take place before a contract for carrying out the works of redevelopment on the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

Reason:

In accordance with paragraph 4.29 of PPG15: Planning and the Historic Environment, to ensure that demolition does not take place far in advance of redevelopment leaving an unsightly gap which would harm the character and appearance of the Conservation Area.

4. EXPLORATORY WORK

No demolition shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. (Developers will wish to ensure that in drawing up a scheme, the timetable for the investigation is included within the details of the agreed scheme).

Reason:

In accordance with Policy AEV11 of the adopted City of Plymouth Local Plan First Alteration 1996.

5. ACCESS FOR OBSERVATION/RECORDING

The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow them to observe the excavations and record items of interest and finds.

Reason:

In accordance with Policy AEV11 of the adopted City of Plymouth Local Plan First Alteration 1996.

Informatives

1. In the exercise of the Consent regard must be had to the conditions attached to and specified upon the notice of Planning Permission No: 04/02123 relating to the development to which these works are associated.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations which in this case are considered to be: impact upon the character or appearance of the Barbican Conservation Area the proposal is not considered to be demonstrably harmful to local amenities. In the absence of any other overriding considerations, and with the imposition of the specified planning conditions, the proposed development is acceptable and complies with the following policies of the Devon Structure Plan First Review 1996, the City of Plymouth Local Plan First Alteration 1996, the City of Plymouth Local Plan (1995-2011) First Deposit 2001 and relevant Supplementary Planning Guidance, Government Circulars and Planning Policy Guidance Notes as follows:

AEV14 - Character, Setting and Demolition of Listed Buildings

AEV19 - Demolition in Conservation Areas

AEV20 - Preservation and Enhancement of Conservation Areas

POL73 - Ancient monuments and archaeology

POL74 - Development affecting listed buildings

POL75 - Development in Conservation Areas

POL99 - Reducing and reusing demolition waste

PPG15 - Planning and the Historic Environment

OFFICERS REPORT

Site Description

The site lies within the Barbican area of special architectural and historic interest and largely comprises the former Blackfriars Copy Shop - a single storey masonry building with a mezzanine floor and a basement along the northern side of the site. This building was built as a bacon factory in 1949. It later changed its use to a butchers and then (in 1984) to a reprographics business. It has remained vacant for a year.

The Blackfriars Copy Shop building abuts a western boundary wall that represents the standing remains of the former Holy Trinity Church that was destroyed by bombing during 1941. The wall is part rendered and part exposed and the relief reveals features of the western wall of the church. To the west of the site, built against the remains of the Church at a lower level, is a refurbished public house that makes a feature of this boundary wall visible behind and above the bar (the Gog and McGog Weatherspoons).

Below the site, at the basement level beneath a concrete floor, are two access tunnels and small catacombs constructed in stonework with vaulted ceilings. These catacombs date from 1840 and once formed part of the Holy Trinity Church. Part of the sub ground floor space is circa 1950. This area has been used for storage purposes in association with the building above. Although accessed from within the building, the catacombs also have an access door (emergency access) that is designed to lead off a courtyard (now in other ownership) to the north of the site. This is a residents' car park to serve a block of Southside Street 1950's/1960's retail units with flats above and external terrace. The rear of the Queens Arms public house also lies to the north of the site.

The 4 storey Mount Edgumbe Masonic Hall lies beyond a small car parking area to the south of the site. To the east, across the narrow Friars Lane are a series of 4 storey residential buildings, some of 1960 origin and some created by refurbishment of stone warehouse (wrapping around to New Street). To the east, directly opposite the present entrance to the site is Trinity House a 4 storey early 18th century building, in office use. This is a Grade II Listed Building.

Proposal Description

The proposal to demolish the Copy Shop and retain the basement level should be considered mindful of the previous report (plan ref 04/02123) to redevelop the site to provide 15 apartments. The application is accompanied by an extensive design statement, and this highlights the historic background to site features and buildings and how the site relates to the Conservation Area, (and associated national and local conservation policies), and the setting of the Grade II Trinity House opposite.

The proposal would involve the demolition of the building on site whilst leaving the catacombs intact.

The proposal would involve the retention of the western wall of the Holy Trinity Church as a feature.

Background History

02/0441 Application treated withdrawn (January 2003) proposal for 26 flats and two offices below (basement area)

04/01147 and 1149 Applications for demolition of the former Blackfriars Copy Shop Building, retaining catacombs, and erection of building containing 15 residential apartments with associated parking and relocated access (Application withdrawn June 2004)

Consultation Responses

Environment Agency - Awaited.

Highway Authority - none

Devon Fire and Rescue Service - No concerns.

Devon and Cornwall Constabulary (Crime Prevention/Architectural Liaison Officer) - none

Representations

None

Observations

This application stands to be considered principally in the context of PPG 15 and the following policies of the adopted Local Plan First Alteration 1996 - AEV14, 19 and 20, The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF.

The following FDLP policies are relevant: POL73,74,75,and99

An eyesore could be left if the site was cleared without a suitable redevelopment scheme being approved. The building on the site is not one of architectural merit, or has material worthy of recycling in the Conservation Area. However, demolition of the building would facilitate access to the catacombs from above and this should be controlled to avoid damage to these features of historic value. Furthermore the party Church Wall will be more fully exposed following demolition of this adjacent standing building . It will be necessary, before such works take place, that adequate time is given for the archaeological building recording work required to take place and that the nature of the proposed demolition methodology is more fully understood. These aspects might be covered by conditions.

ITEM: 06

Application Number: 04/02200

Applicant: GBCO Trading Ltd

Description of Application: Continuation of use, and retention of conversion works, of ground floor shop to form licensed lounge bar, with replacement shop front, with ancillary facilities on part of first floor

Type of Application: Full planning application

Site Address: 13 Mutley Plain Plymouth PL4 6JG

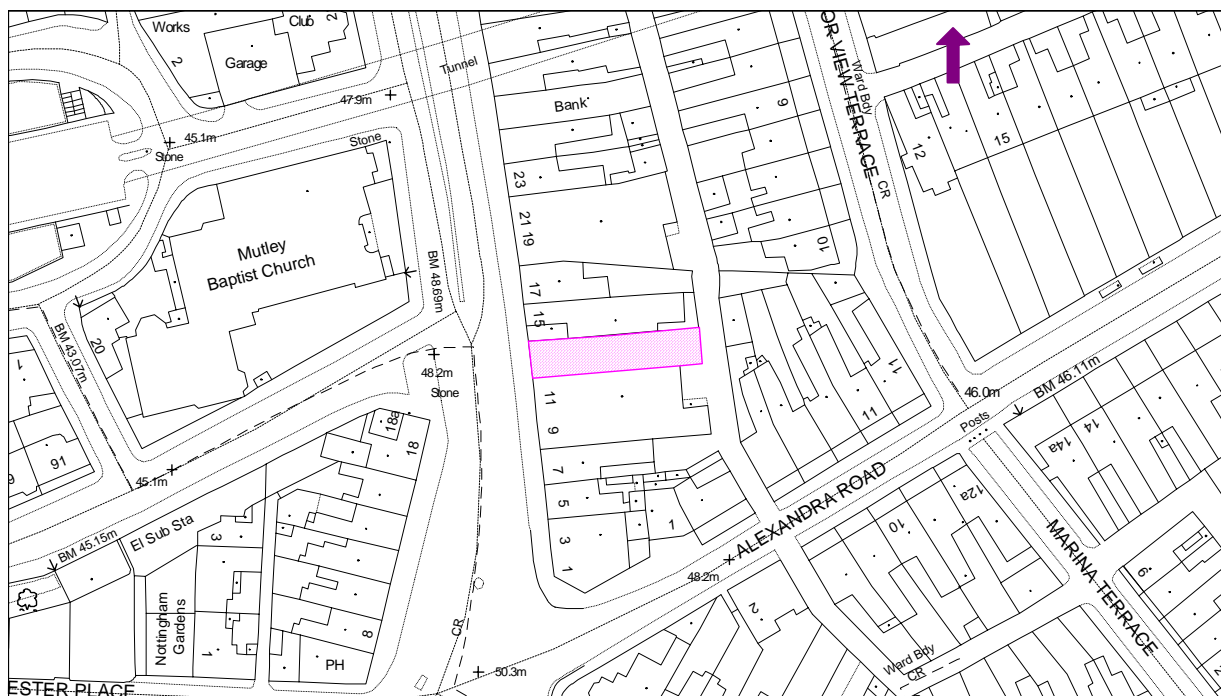
Ward: Compton

Valid Date of Application: 26.11.2004

8 Week Date: **21.01.2005**

Decision Category: Head of Planning & Regeneration Referral

Case Officer : David Bate



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12th January 2005

Recommendation

In respect of the application dated **26th November 2004** and the submitted drawings: **1143-01 Rev d shopfront detail internal screen detail** it is recommended to:

Refuse

1. CONTRARY TO SHOPPING POLICY

The Local Planning Authority considers that the loss of this retail unit within the prime retail frontage of the Mutley Plain District Shopping Centre seriously undermines the retail function of the shopping centre, having regard to the current number of non-retail uses in the shopping centre and to the supporting text at paragraph 8.42 of Policy ASR18 of the adopted City of Plymouth Local Plan First Alteration 1996. The application is therefore contrary to Policy ASR18.

Relevant Local Plan Policies

The following policies from the Devon Structure Plan, the Adopted City of Plymouth Local Plan First Alteration 1996 and the emerging City of Plymouth Local Plan First Deposit 2001 were taken into account in determining this application:

ASR18 - Changes in Use of Shopping Centres
ASR21 - Food and Drink, Entertainment and Amusement Premises
POL16 - Changes of Use in Shopping Centres
POL18 - Food and Drink, Entertainment and Amusement Use
SPG5 - Food and Drink Uses
ASR23 - Shop Fronts
POL19 - Shop Fronts

OFFICERS REPORT

Site Description

Former vacant retail premises where the works of conversion to Class A3 use have already taken place and the premises commenced use as a licensed bar ("The Longroom") on 16th December 2004. The premises are located between the 'Mutley Crown' public house at Nos.9-11 with the 'Dog and Duck' public house at No.15. A service lane runs to the rear between Alexandra Road and Moor View Terrace with the rear two-storey tenement of No.5 Alexandra Road, and other residential properties on Alexandra Road and Moor View Terrace, opposite across the rear lane.

Proposal Description

Full planning application for the change of use and conversion of ground floor shop to form a licensed lounge bar, with replacement shopfront and with ancillary facilities on part of first floor. A hoist and a metal staircase, to a solid door, would be at the rear of the premises.

Now that the use has commenced prematurely, the description of the application has been amended to refer to continuation of the use and retention of the works of conversion.

Background History

93/00946 - Change of use of shop to restaurant and take away within Class A3 (Full) - REFUSED, APPEAL UPHELD.

Relating to 9-13 Mutley Plain: 96/00801 - Change of use from shop (Class A1) to premises for the sale of food and drink (Class A3) for consumption on the premises retaining ground floor of No.13 as a shop (Class A1) (Full) - GRANTED [N.B. This application originally proposed Nos.9-13 for change of use to Class A3 use. This was reported to Planning (Control-Sub) Committee on 1st August 1996 when it was resolved as "minded to grant - defer for negotiation - delegated authority." The negotiations were to address potential noise and disturbance aspects and resulted in the exclusion of the ground floor of No.13, which was thus to be retained as a shop]

Consultation Responses

Highway Authority - No highway objection. The premises are located within a District Shopping Centre where there is a multi-storey car park - there is no other more readily available on or off street car parking. A Class A3 use would allow a hot food take-away to operate but such a use would be likely to result in illegal kerbside car parking, a condition should therefore be imposed to exclude this use. Any servicing can seriously interrupt traffic flows along Mutley Plain, therefore servicing should be from the rear lane and given that the store is located at the rear of the premises it is likely that servicing will be at the rear. The premises should be excluded from the Permit Parking Scheme in operation in the area.

Environmental Services - It is not anticipated that any nuisance would be caused by food smells/odour discharges from the premises, although there is no provision for staff toilets.

Police Liaison Officer - Are opposed to the application and advises that all authorities should consider crime and disorder while exercising all their duties and that crime prevention is capable of being a material consideration. The perception locally of the risk of crime occurring is important as there is great concern among the residents and businesses of Mutley Plain in relation to the increase of licence premises in the area. Reference is made to Policy 18 of the deposit Local Plan with the commentary that the number, type and density of premises selling alcohol in a particular area can lead to serious problems of nuisance and crime and disorder with a concentration of drinkers potentially resulting in queues at fast food

12th January 2005

outlets and for public transport - this in turn can lead to conflict, disorder and anti-social behaviour. This may increase future policing demands in the area.

Representations

6 letters of representation have been received from local residents and businesses objecting to this application on grounds that there are already too many licensed premises on Mutley Plain with the associated problems of noise, litter and anti-social behaviour of many patrons; saturation point has already been reached; works have already been done; the applicant could attract the clientele he is seeking by improving his existing bars; would undermine attempts to (and money spent on) making Mutley Plain a safer and more pleasant environment for those who work, shop and live in the area; the amount of drinking places is likely to discourage passing trade to existing businesses; quality of life of nearby residents is being harmed by the loutish activities of drinkers; an additional bar would make it worse especially at evenings and during weekends - the concentration of bars becoming an attraction and leading to excessive drinking.

482 identical letters have been received in support of the proposal referring to the vibrancy that new developments are bringing to the area, that cafes, bars and public houses are now generally in greater demand and that Mutley Plain is the preferred area to shop, eat and socialise.

In a letter of support accompanying this application the agent comments that a provisional Justices licence had been granted in April 2002 and that the works to adapt the premises were commenced in good faith by the applicant who believed that he already had planning permission courtesy of 96/00801 with reference to the resolution of the Planning Committee at that time and that regard would have been made to the then recently adopted policies ASR18 and ASR21. The agent then refers to the reduction to the prime retail frontage proposed in the Deposit Local Plan and the exclusion of the application premises and that the proposal would therefore comply with Policy 16. The agent comments that the intention is to have a very high standard conversion and run on the lines of a city wine/cocktail bar and aimed at a different clientele than other bar premises in the area; there are no openings proposed at the rear of the building except for the existing emergency door and an intake for a proposed air handling system; the proposed use will not have any direct impact on nearby residential properties; it is anticipated that there will be only one major delivery a week to stock the bar to take place from the existing rear loading bay; the location of the proposed use is considered appropriate in planning terms and such additional activity as may arise will not significantly change the existing day or night time environment; a retail use in this location would be marginal having previously been used as a charity shop and there would be some 8 to 10 people employed plus about 6 on a part-time basis.

Observations

The application premises are located within the prime retail frontage of the Mutley Plain District Shopping Centre as defined in Appendix 8C of the adopted City of Plymouth Local Plan First Alteration 1996.

Policy ASR18 of the Local Plan permits the change of use of ground floor retail premises (Class A1) in such a frontage to uses within Class A2 (e.g. banks, estate agents) or Class A3 (food and drink) provided that the proposed use would not seriously undermine the retail function of the shopping centre.

Paragraph 8.42 of the Local Plan, relating to policy ASR18, acknowledges that there was, at the time of adoption of the Local Plan, a substantial interruption of all shopping frontages, that the overall level of non-retail uses was high and that there was a need to prevent any

further loss of retail in the prime frontage and a need to establish an overall level of retail uses in the shopping centre of Mutley Plain that would be above the level existing at that time. It goes on to state that it is unlikely that planning permission will be granted for more than 45% of all ground floor premises within the centre as a whole (i.e. not just the prime retail frontage) to be used for non-retail purposes.

Policy ASR18 contains 5 factors to be taken into account in assessing the change of use of ground floor premises in the prime retail frontage to non-retail use:

With regard to factors 1 and 2 (the location and prominence of the premises and its floorspace and frontage), it is considered that the premises are not particularly well located or prominent within the shopping frontage given the proximity to the southern end of the prime shopping frontage, the nature of the adjacent premises, the lack of any retail unit within any of the premises along the frontage to the south, the limited frontage width of only 6m wide and the relatively modest public floorspace of some 90 sq.m. With regard to factors 4 and 5 (nature and character of proposed use and whether it would give rise to environmental problems), the nature of the activity and the likely problems of noise etc. are not likely to cause demonstrable harm in this locality, although given the proximity of residential properties to the rear, it is considered that similar restrictions to those imposed for 9-11 adjacent would need to be imposed on any permission to protect amenities. Further commentary on this aspect is made in relation to policy ASR21 below.

Factor 3 of ASR18 refers to the number, distribution and proximity of other A2/A3 uses. Within the defined District Centre prime retail frontage, 43 out of the 73 premises (58.9%) would remain in retail (Class A1) use (N.B. this compares with 60.8 % in 2001 (45 units) and 62.2 % in 1995 (46 units)). 30 of the premises (41.1%) in the prime retail frontage would be in non-retail use. With regard to Mutley Plain, paragraph 8.42 is important and, as described above, sets a 45% "limit" on non-retail uses in the shopping centre as a whole. This figure is already substantially exceeded, with some 55% of premises in non-retail use.

In respect of the section of Mutley Plain between numbers 1 and 35 (odds), only 6 out of the 16 premises (or 38 %) would remain in retail use (37 % of the frontage). Furthermore, 7 out of the total of 14 Class A3 premises within the entire prime retail frontage of Mutley Plain would fall along the section between numbers 1 and 35 (odds), together with two Class A2 uses and an amusement arcade.

Therefore, the main problem with the use of the application premises for non-retail use is in relation to the excessive number of non-retail uses already existing in the shopping centre as a whole (prime frontage plus adjacent commercial premises). The main problem with its use for a food and drink use is considered to be the concentration of these types of uses in this part of Mutley Plain, with the use of the application premises resulting in half of all of the food and drink uses in the entire prime frontage being located in this stretch of properties.

With regard to the planning history of the application site, the refusal of permission on the 1993 application was made under the original 1987 Local Plan which contained a policy (S13) that generally prevented non-retail uses in prime retail frontages and which, in respect of Mutley Plain, restricted non-retail uses to no more than 49% of the premises in the shopping centre as a whole, in recognition of the substantial interruption of shopping frontages and the overall high level of non-retail uses. The explanation of the policy states that the proportion of uses in Mutley Plain as a whole was considered to be finely balanced and the Council was concerned that its retail function required protecting, therefore there was a need to operate a control on the overall level of uses in the centre as a whole in addition to the prime frontage policy. In determining the appeal in 1994, the Inspector also considered

the then-emerging draft First Alteration policy which, as the draft Plan was at an advanced stage in its statutory adoption procedure, was accorded significant weight. The Inspector noted that the First Alteration policy (SR18 as it was then) slightly relaxed the 1987 policy by indicating that A3 uses would be allowed in prime frontages where selectively provided, but that the maximum proportion of non-retail uses was to be reduced from 49% to 45%. However, the Inspector concluded that, because restaurants and cafes (N.B. the Inspector avoids reference to public houses or bars) can add variety and attraction to shopping centres, and as the percentage of non-retail uses in the centre as a whole was only 34.5% at that time, then the proposed restaurant and take away would not result in over-concentration of non-retail, and in particular A3, uses in either the shopping centre as a whole or this part of it. The Inspector therefore concluded that the proposal would not materially harm the centre's vitality or its viability and would accord with both the adopted and emerging Local Plan policies, and therefore allowed the appeal (having also not accepted that there would be transport-related problems) subject to conditions, including a restriction to restaurant use only. This planning permission expired on 23rd March 1999.

The 1996 application referred to above was amended to exclude the application site and thus the decision to grant permission gives no support to the present application proposals.

Having regard to the planning history, the type of A3 use approved on appeal was different and the proportion of non-retail uses in the centre as a whole was significantly less than it is now. It is therefore considered that this previous decision does not favourably influence the decision on the current application. Having regard to the adopted Local Plan policy, and notwithstanding the consideration of the First Deposit Local Plan (see below), the use as a licensed bar is considered to be unacceptable and would be likely to seriously undermine the retail function of the shopping centre.

The application premises has been vacant for some time, even prior to its purchase by the applicant 3 years ago when he has since kept it vacant. It had evidently been occupied as a charity shop until 1998/99 and it is understood that the only other use since then has been for a 6 month period as a bed shop before the business folded. However, it is not known how the property was marketed during these vacant years.

There were two appeal decisions in October 2002, relating to Nos.28 and 41 Mutley Plain for changes of use from Class A1 to Class A3. Both of these appeals were dismissed as the loss of each of these retail units would have an unacceptably adverse effect on the vitality and viability of the shopping centre. These decisions are therefore considered to be material.

In respect of No.28, the Inspector noted that the loss of this unit would increase the proportion of non-retail uses to almost two-thirds which would have a significantly harmful effect on this section of the frontage, which forms the main route to and from the busy multi-storey car park.

In respect of No.41, the Inspector considered that the proposal would "manifestly" result in the loss of a retail unit with the increase in the number of non-retail units leading to a greater imbalance in the mix of facilities. The cumulative effect of the loss of this shop unit would seriously undermine the retail function of the shopping centre. The Inspector commented: "The major purpose of any shopping centre is its retail function. While supporting services are necessary, and add diversity, they need to be kept in proportion. Put simply, the fewer shops there are, the less attractive the shopping centre becomes. As a consequence, its retail function is undermined."

Whilst each planning application should be determined on its own particular planning merits, these decisions support the conclusions made in respect of the current application.

Local Plan policy ASR21 allows new food and drink uses provided there would be no detriment caused to local residential amenities, traffic or parking problems or harm from noise and other disturbances.

It is noted that traffic movement along the section of Mutley Plain to the front of these premises is already affected by queues of taxis and revellers spilling out onto the street from the existing establishments in the vicinity. This one additional bar is unlikely to materially affect this situation and no objection has been raised to this proposal by the Highway Authority. Environmental Services do not anticipate any noise or odour nuisance from the operation of the business, although it is considered that planning conditions would need to be imposed on any permission regarding hours of opening and loading/unloading times, music amplification, noise levels and extraction details (all as imposed in respect of application 96/00801 for 9-11 Mutley Plain). Any retail operation of the application premises would have unrestricted use of the rear service lane for loading/unloading and therefore provided control is exercised over this function, together with preventing any patron use of the rear door (other than as a fire escape), it is considered that the proposed use would not be unduly harmful to the amenities of the immediate residential properties which back onto the service lane.

In the wider context, concern has been expressed regarding the introduction of yet another drinking establishment in Mutley Plain and the harm that this is causing on the general amenities of the area and more specifically on the harm to the amenities of residential properties and disruption to residents in the area caused by anti-social behaviour of drinkers. This is recognised in the consultation response of the Police Liaison Officer.

The need for another drinking establishment is not regarded as a material planning consideration as the planning system should not be used to make judgements on market need or demand, nor is the specific type of bar establishment proposed by the applicant. It is considered that a further 'food and drink' establishment along Mutley Plain in a vicinity with a concentration of other Class A3 uses would be unlikely to add significantly to existing problems of noise and disturbance, not least because it is difficult to see how the use of this property would cause problems in itself, although given that it has opened prematurely there will have been experience of any problems by the time of this meeting of Committee. The additional impact on local amenity caused through the operation of another bar, either on its own or in conjunction with the other bars in the vicinity, is not likely to be so significant or quantifiable such that a refusal of planning permission could be justified in planning terms and as such a decision would not be supported by Environmental Services or the Highway Authority. It is therefore considered that there would be no conflict with Local Plan policy ASR21 relating to new or extended Class A3 uses.

In respect of the proposed new shopfront, it is not considered that this raises any issues and would be appropriate in this location. There would therefore be no conflict with Local Plan policy ASR23.

The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF.

Policy 16 of the FDLP relates to changes of use in shopping centres and is intended to replace adopted policy ASR18. However, the extent of the proposed prime retail frontage for Mutley Plain is proposed to be reduced in the FDLP, with the frontage between numbers 1 and 35 (odds) excluded. This application site, being within the excluded properties, would therefore not conflict with this emerging policy. This emerging policy seeks to restrict the proportion of non-retail premises within the remaining prime frontage to no more than 1 in 4 premises within any individual frontage.

However, objections have been raised to Policy 16 and, as it has not been subjected to any formal Local Plan inquiry, the weight that can be attached to it is diminished. This compares to the approach taken by the Inspector on the appeal in 1994 where the now-adopted First Alteration was afforded significant weight.

Policies 18 and 19 essentially reiterate the considerations of adopted policies ASR21 and ASR23.

Supplementary City of Plymouth Planning Guidance Note 5 (Food and Drink Uses) approved in December 1995. This highlights the three main areas of concern applicable for proposed food and drink uses as amenity, highway issues and concentration of uses. With regard to the latter, the guidance expressed at Section 3.4 states:

"Where a locality is already facing problems emanating from food and drink uses, additional uses will not be allowed unless it can be conclusively proven that their functioning will not worsen existing problems. The question of competition between various facilities is a separate issue and not relevant when determining planning applications.

The City Council seeks to retain a healthy balance between shops and services. If too many premises are allowed to change to a non-retail use there is the likelihood that retail centres will lose their compactness, vitality and viability."

The representations and the agent's letter of support have been carefully considered. The representations against the application reflect, to some extent, the intentions of the adopted Local Plan shopping policy. As explained above, and notwithstanding the comments of the Police, it is not considered that the noise, disturbance and similar effects are such as to warrant refusal of permission. The representations in support of the application reflect the popularity for potential customers for these types of uses in Mutley Plain. The letter from the agent sets out all the arguments in favour of granting planning permission.

Conclusion

In assessing the application, the fact that the use has commenced prematurely has not, and must not, affect the recommendation and decision made. Instead, the application must be considered on its merits, having regard to all material aspects. Having carefully taken into account all relevant adopted and emerging policies and other material planning considerations, including the previous applications and decisions relating to the application site and including recent appeal decisions elsewhere in Mutley Plain, it is considered that the

aspect that proves fatal to the application is the clear presumption against further non-retail uses in this shopping centre in the adopted Local Plan. The application is contrary to this aim and is therefore recommended for refusal.

In the event that Planning Committee agree with this recommendation, then the consequent actions in respect of the premature conversion and use of the premises will have to be decided.

ITEM: 07

Application Number: 04/02241

Applicant: Mr And Mrs Parmenter

Description of Application: Single-storey rear extension

Type of Application: Full planning application

Site Address: 124 Lynwood Avenue Plymouth PL7 4SQ

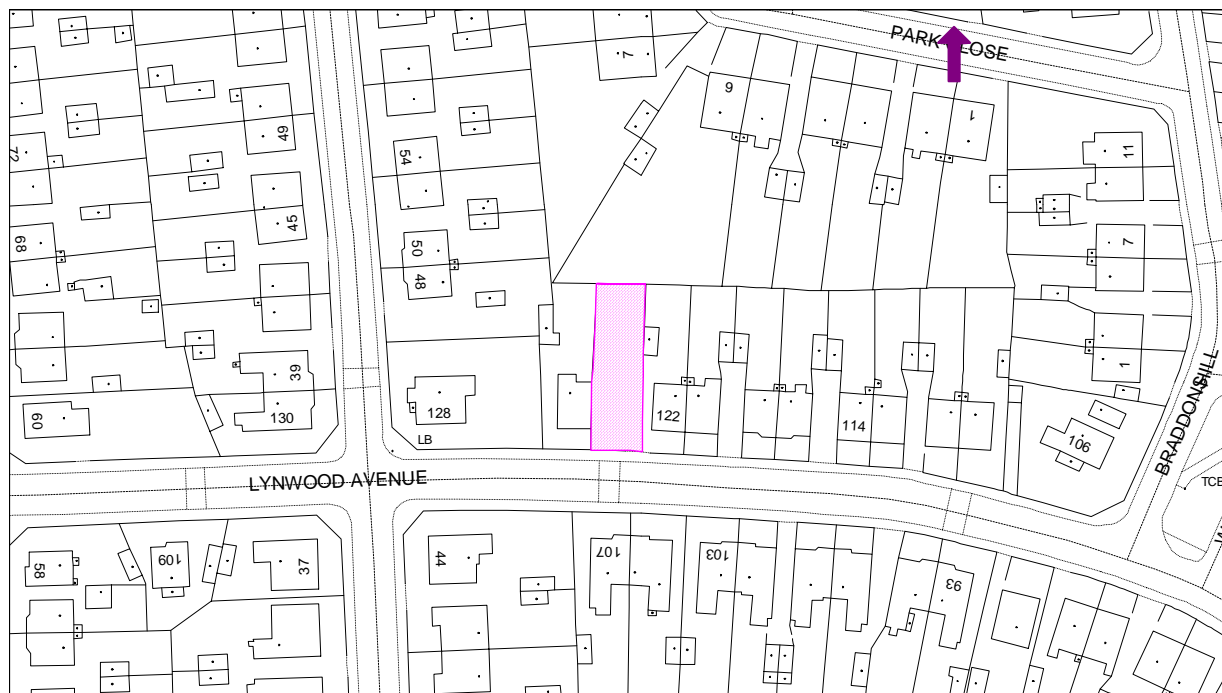
Ward: Plympton St Mary

Valid Date of Application: 03.12.2004

8 Week Date: **28.01.2005**

Decision Category: City Council Member or Employee

Case Officer : Jessica Peacey



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12th January 2005

Recommendation

In respect of the application dated **3rd December 2004** and the submitted drawings: **01 02** it is recommended to:

Grant Conditionally

1. DEVELOPMENT TO COMMENCE WITHIN 5 YEARS

The development hereby permitted shall be begun before the expiration of five years beginning from the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact on neighbouring properties and impact on amenity space, the proposal is not considered to be demonstrably harmful to local amenities. In the absence of any other overriding considerations, and with the imposition of the specified planning condition, the proposed development is acceptable and complies with the following policies of the Devon Structure Plan First Review 1996, the City of Plymouth Local Plan First Alteration 1996, the City of Plymouth Local Plan (1995-2011) First Deposit 2001 and relevant Supplementary Planning Guidance, Government Circulars and Planning Policy Guidance Notes as follows:

AHR13 - Residential Extensions

POL28 - Householder Development

SPG1 - House Extensions

OFFICERS REPORT

Site Description

Located in the Plympton area of the city, the house is semi-detached, and is facing north at the rear. The area is residential and the properties consist of a uniform pattern, the estate appears to have been built in the early 1970's

The nearest properties are numbers 122, 126 (which adjoins the applicants property) and 6 Park Close at the rear. Number 126 is separated from the applicants by a low wooden fence, and number 122 by half breezeblock and half wooden screening.

Proposal Description

The application is for a single-storey rear extension to extend the kitchen area. The proposal is square in plan view, with the dimensions of 3 metres in length by 3 metres in depth, measured externally, with a maximum height of 4 metres. A window will be installed on the rear elevation with a single door adjacent to it, which will lead into the garden.

Background History

04/00757 - Part single-storey, part two-storey, rear extension - Refused on grounds of loss of light as the proposal did not comply with the 45-degree rule.

Consultation Responses

None.

Representations

No letters of representation have been received.

Observations

The application falls under AHR13 of the City of Plymouth Local Plan First Alteration 1996 and Supplementary Planning Guidance (SPG) Note 1.

It is considered that the proposed rear extension will pose no threat on neighbouring properties outlook and light, especially as the proposal complies with the 45-degree rule for property number 126. Property 122 has a fence on top of a brick/breeze block wall; furthermore the windows located on the side elevation will not be affected by the new development. Additionally number 122's extension projects further than the proposed development. High hedges at the rear ensure 6 Park Close do not experience any detrimental effects of the proposed rear extension. The materials used are the same as the existing materials, and the pitch of the proposed new roof is the same angle as the 'original' house. The rear garden is a reasonable size, thus the extension will not be demonstrably harmful to the amenity space.

The application is recommended for approval.

The City of Plymouth First Deposit Local Plan (1995-2011) (FDLP) was published for consultation in December 2001, and was placed on formal deposit in January 2002. On 18 March 2003, in anticipation of the Government's proposed reform of the development planning system nationally, the Council's Executive Committee resolved not to proceed to Revised Deposit stage, but instead to move towards producing a Local Development Framework (LDF) for Plymouth. Production of the LDF is in its early stages.

However, it is important to recognise that the Council has not abandoned the FDLP. For that reason, both the Adopted City of Plymouth Local Plan 1996, and the 'emerging' FDLP

continue to comprise 'material considerations' in decision making. Paragraph 48 of PPG1 states that the weight to be given to the FDLP policies and proposals will increase as successive stages of its progress towards adoption are reached, in this case as it undergoes the process of being embodied into the LDF. Policy 28 of the FDLP raises no new issues.