

# PLANNING APPLICATION REPORT



**ITEM: 01**

**Application Number:** 13/00349/FUL

**Applicant:** T & O Developments

**Description of Application:** Change of use and conversion of vacant office building to form three residential units, and erection of three detached dwellings on existing car parking area

**Type of Application:** Full Application

**Site Address:** PARKVIEW HOUSE, TRELAWNEY LANE PLYMOUTH

**Ward:** Peverell

**Valid Date of Application:** 26/02/2013

**8/13 Week Date:** **23/04/2013**

**Decision Category:** Member Referral

**Case Officer :** Robert McMillan

**Recommendation:** Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 16/05/2013.

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**This application has been referred to Planning Committee by Councillor Martin Leaves.**

### **Site Description**

The site is located to the west of Trelawney Lane in Peverell. It is accessed from this rear lane. To the east is the terrace of early 20<sup>th</sup> century dwellings with their backs facing the site. Their boundaries with the lane comprise a 2 metre high stone wall. At a lower level and to the west and south lies Ford Park Cemetery. To the north there are two courts of lock up garages and a single dwelling. It is bounded by a high brick on the north east boundary with the lane and a stone and block work wall on the south west boundary of varying height which is partly covered in vegetation.

The site is long (approx 110m) and thin (approx 9 – 14m) and slopes down from north to south. It is currently laid out with Parkview House, at the northern end and a car park to the south. Parkview is an older solid commercial building in brick and render. The site has been vacant since 2009 and has permission for restricted light industrial uses. The applicant has begun the process of converting the first floor to residential use.

### **Proposal Description**

The proposal is to convert Parkview House into three self-contained three flats and erect three chalet bungalows on the hard surfaced area south west of Parkview House.

The extensions to Parkview House would be demolished and the boundary walls lowered. The conversion is the same as the previous scheme with two 2 bedroom flats on the ground floor with access one from the north west side and the other from the south east side. There would be a large three bedroom flat on the first floor with access from the south east side. Four parking spaces and amenity space are provided either side of the building.

The small windows facing the lane would be enlarged. New large windows would be added to the south west elevation with Juliette balconies at first floor and two new windows would be inserted into the north west elevation.

There would be three 2 bedroom chalet bungalow. Plot 1 is 14.8m long by 5.7m wide by 5m to 6m high. Plot 2 is 13.2m long by 7.3 m wide by 5.5 to 6m high. Plot 3 is 15.2m long by 6.8m wide by 5.5 to 6m high. Plots 2 and 3 will have two parking spaces and plot 1 will have one space. Each plot has amenity space.

Vehicular access will be from Trelawney Lane and the long boundary wall with the lane will be removed to allow for road widening.

### **Pre-Application Enquiry**

The applicant had a post refusal meeting with officers following the appeal decision to discuss a way forward with a new application.

### **Relevant Planning History**

12/00568/FUL- Change of use and conversion of office building to form three residential units, and erection of four semi-detached dwellings on existing car parking area – REFUSED – APPEAL DISMISSED.

11/01288/OPR - Suspected unauthorised building alterations & residential use of part of building. Enforcement issued. APPEAL ALLOWED, ENFORCEMENT NOTICE QUASHED.

11/1906/FUL – Continued use of Parkview House for residential – WITHDRAWN.

11/1495/FUL – 3 Flats and 4 semi detached houses – WITHDRAWN.

98/1030/FUL – BI light industrial – GRANTED with many restrictions on the type of use acceptable.

96/654/FUL – Church and school – REFUSED.

92/317/FUL – Storage and paint distribution – GRANTED.

81/4262/FUL – Painting contractors – GRANTED.

78/2844/FUL – Auction sales – GRANTED.

### **Consultation Responses**

#### **Local Highway Authority**

No objection. The access arrangements, car and cycle parking are acceptable. The lane will need to be upgraded which will be subject to a Highways Act section 278 agreement. Suggests conditions relating to: street details, completion of highway, highway improvements parking, cycle storage provision and code of practice,

#### **Public Protection Service**

No objection subject to standard conditions on land quality and code of practice.

#### **Economic Development**

No objection. The loss of any employment site is regretted but it will not impact on the availability of employment land and opportunities that are more suited to modern employment sites given the constraints of this site and the restrictions imposed on the previous permission.

### **Representations**

There are 11 letters of representation raising the following points:

1. Parkview House is too close to houses in Trelawney Road and breaches to 12 metre rule for new build that should be applied to conversions from employment to residential use;
2. Officers and the Inspector did not deal with the relationship between Parkview House and the houses in Trelawney Road adequately;
3. Light and noise disturbance from Parkview House;
4. Loss of privacy;

5. The obscure glass in Parkview House is not obscure enough;
  6. Noise disturbance;
  7. Harm to outlook;
  8. Loss of daylight and sunlight;
  9. The building and site should not be used for residential use;
  10. The site should remain in employment use;
  11. The site is too narrow;
  12. Overdevelopment;
  13. Danger on Trelawney lane with increased traffic and no footway on the northern part of the lane;
  14. Both exits from Trelawney Lane to Trelawney Road are dangerous;
  15. Will add to congestion and on-street parking;
  16. Ground contamination issues;
  17. Adverse effect on the wildlife in the cemetery;
  18. What benefits does the development provide for local residents?
  19. If granted safeguarding conditions should be attached; and
20. The new scheme is an improvement with bungalows instead of two storey houses.

## **Analysis**

### **Introduction**

1. Following the recent appeal decision the main issues with this application relate to how this new scheme addresses the matters raised by the Inspector's decision. These are: the loss of employment land and the principle of residential development; the impact on the character and appearance of the area; the effect on the living conditions of Parkview Houses the its suitability for conversion; the effect on the living conditions of the houses in Trelawney Road; the effect on the living conditions of the proposed flats and chalet bungalows; transport matters; and the draft section 106 and measures to mitigate the impacts of the development

2. The main policies are: Core Strategy policies and strategic objectives SO2 Delivering Sustainable Linked Communities, CS01 Development of Sustainable Linked Communities, S04 Delivering the Quality City, CS02 Design, SO6 Delivering the Economic Strategy, CS05 Development of Existing Sites, SO10 Delivering Adequate Housing Supply, CS15 Overall Housing Provision, CS16 Spatial Distribution of Housing Sites, SO11 Delivering a Sustainable Environment, CS19 Wildlife, CS22 Pollution, SO14 Delivering Sustainable Transport, CS28 Local Transport Considerations, CS33 Community Benefits/Planning Obligations, CS34 Planning Application Considerations; the National Planning Policy Framework (NPPF); Development Guidelines Supplementary Planning Document (SPD); Design SPD and Planning Obligations and Affordable Housing SPD

### **Background**

3. The recent planning history is an important material consideration of this application. The previous application - 12/0568 was for the conversion of Parkview House into three flats and the erection of four semi-detached houses. It was reported to the Planning Committee on 31 May 2012 and it was refused for the following reasons:

1. Adverse impact on character of area & neighbours' amenities

The proposed development by virtue of its proximity and design in relation to neighbouring residential properties is considered to be both incompatible with the character of the area and to adversely impact upon the amenities of the neighbouring properties in relation to outlook and privacy. As such it is contrary to Policies CS02 and CS34 of the Adopted Core Strategy.

2. Loss of existing employment use

The proposed development involves the loss of employment uses of which there is inadequate supply in the local area. As such it fails to satisfy the requirements of Policy CS05 of the Adopted Core Strategy in relation to loss of a viable employment site and Policies CS01 and CS02 in relation to the delivery of sustainable linked communities.

3. Lack of local & strategic infrastructure mitigation

Future residents living in the proposed development would make additional demands upon both local and strategic infrastructure (primary schools; local green space; play space, playing fields, strategic green space, Plymouth European Marine site, sports facilities public realm and transport). Notwithstanding the progress made with the applicant in agreeing suitable mitigation to these impacts the agreed contributions have not been finalised and as such the proposal is contrary to Policy CS33 (Community Benefits / Planning obligations) of the Adopted Core Strategy and the Planning and Affordable Housing Supplementary Planning Document (SPD).

**The appeal**

4. The applicant appealed and there was a hearing on 24 October 2012 together with an appeal against an enforcement notice served against an alleged change of use of Parkview House from a Use Class BI business premises to a mixed use Class BI business premises and self-contained dwelling.

5. The Inspector gave his decision on 5 December 2012 allowing the enforcement appeal and quashing the notice, dismissing the planning application appeal and making a partial award of costs against the Council. He provided a detailed analysis of the main issues with the planning appeal that are relevant to this application. He considered that the main issues were:

- “1) Whether the loss of this employment site/premises would be harmful to the provision of such sites/premises and employment opportunities in Plymouth and the viability of re-using Parkview House for these purposes;
  - 2) The impact on the character and appearance of Parkview House and the surrounding area;
  - 3) The impact on the living conditions of residents living in nearby properties on Trelawney Road and whether the living conditions for the occupiers of the proposed flats and dwellings would be of an acceptable standard.”
- (paragraph 30)

6. The following parts of this section of the report make reference to the Inspector's findings as they relate to the issues with the current application.

### **Loss of employment land**

7. The site has been in employment use of various kinds since it was first built. The last use was B1 light industrial use granted on 1998. Because of the sensitive location of the site, and the objections from local residents, this permission was severely restricted by condition so that all future users would, among other things, need to submit details of all processes and machinery and would be prevented from open storage. The last use moved out in 2009 and no new user has been found. The applicant has submitted an employment land study, which includes details of how the site has been marketed over this period and explains why the site is not well suited for office accommodation because of its location, layout and inability to compete with the supply of office accommodation in the central part of the city. This together with the back lane location of the site has lead officers, in consultation with colleagues in Economic Development, to recommend that the loss of this site for employment purposes would not conflict with the aims of policy CS05, despite the shortage of employment site in Peverell.

8. The Inspector found that the site was unattractive to potential commercial occupiers owing to its location, characteristics, closeness to houses and limitations imposed by planning conditions. He concluded:

“ . . . I find that the loss of this employment site/premises would not be harmful to the provision of such sites/premises and employment opportunities in Plymouth. I also conclude that the proposed development would not lead to the loss of an employment site which has been shown to be viable and that for this reason there would be no conflict with the thrust of Policy CS05 of the CS.” (paragraph 43).

He awarded costs against the Council for failing to substantiate the reason for refusal on loss of employment land.

9. The Council's Economic Development Department does not object to the loss of this employment site owing to its disadvantages for prospective commercial occupiers. No fresh evidence has been provided that rebuts the evidence in the employment land study. Officers consider that the loss of the site for employment uses and development for housing does not conflict with Core Strategy policy CS05 or paragraphs 22 and 51 of the NPPF and is acceptable.

### **Character and appearance – Parkview House**

10. The Inspector commented that the removal of the lean-to extensions to Parkview House would enhance its appearance. The re-instatement of windows in the south east façade and installation of matching windows in the south west elevation would respect the building's character (paragraph 44). He did not comment specifically on the enlargement of the smaller windows on the ground floor of the north east elevation but these too would respect the character of the building.

11. The main issues of concern was the windows in the south west elevation overlooking the cemetery. He believed that they respected the appearance of the building. He did not consider them to be unduly intrusive to users of the cemetery. He concluded in paragraph 50:

“ . . . that the conversion scheme proposed would respect the character and appearance of the building and the surrounding area and result in some enhancements due to the removal of the later incongruous additions and the reinstatement of some of the original fenestration. I find this aspect of the scheme to be acceptable subject to the imposition of appropriate conditions.”

### **Character and appearance – new chalet bungalows**

12. The Inspector’s findings on the effect of the appeal proposed dwellings on the character and appearance of the area are not relevant to the details of this application as the four semi-detached two storey flat roofed houses have been replaced with three detached chalet bungalows with pitched roofs. The current scheme has a more traditional design. The buildings will be finished in render under slate roofs and officers consider that they would not harm the character or appearance of the area and in design terms comply with Core Strategy policies CS01, CS02 and CS34 and NPPF paragraphs 56 – 58 and 60.

### **Living conditions – Parkview House**

13. The Inspector stated that the occupiers of the flats would enjoy satisfactory living conditions.

14. The main concern with residents was the potential for overlooking and inter-visibility between the windows in Parkview House and the houses in Trelawney Road. The first floor windows in Parkview House have been fitted with fixed obscure glass lower panels and top hung clear glass upper panels. This will be repeated on the ground floor. There is an issue over the degree of obscurity but the applicant has stated that the glass used is the most obscure type available. The first floor kitchen windows in the south east elevation in clear glass could be treated in the same way and could be dealt with by condition.

15. Another objection related to disturbance, noise and intrusion from lighting. The Inspector noted that the former lawful commercial use would have generated activities and he stated that the proposed use as flats would cause any material harm. He continued:

“ . . . Lights may be more evident in the evening with a residential use but I do not accept that this in itself would cause an unacceptable loss of amenity for neighbouring residents.” (paragraph 56).

In considering all of the issues the Inspector concluded that the conversion of Parkview House into three flats was acceptable and considered issuing a split decision permitting the conversion.

### **Living conditions – proposed dwellings - outlook**

16. The main issue related to the distance between the houses in Trelawney Road and the proposed two storey houses. To protect the outlook from existing and proposed dwellings paragraph 2.2.31 sets a minimum distance of 12 m between a main habitable room window and blank wall. The Inspector noted that as the walls of the proposed houses facing the lane would contain windows but as these were to non-habitable rooms glazed in obscure glass the 12m guideline was appropriate.

However he felt it was “the bare minimum advised”. He believed that the outlook from the houses in Trelawney Road would be altered significantly stating:

“... I have taken account of the low rooflines of the proposed houses but their presence would still, in my opinion, cause some material harm to outlook, increasing the sense of enclosure.” Paragraph 58

17. The Inspector was concerned about the outlook from the proposed houses particularly from main habitable rooms in the south west elevations facing the boundary wall as there was a narrow gap of 1 -2 m which he thought would result in a poor and oppressive outlook. On these issues he concluded:

“... In respect of the proposed houses, I conclude that they would lead to some harmful loss of outlook for the occupiers of houses in Trelawney Road that face towards them. I also conclude that that the close proximity of the dwellings to the wall on the south-western boundary would result in unacceptable living conditions in the living rooms on the ground floor, to the detriment of the prospective occupiers. For these reasons I consider that there would be conflict with criterion 6 of Policy CS34 and criterion 5 of Policy CS15 of the CS.” (paragraph 66)

18. He went on to say that the applicant may wish to discuss with the Council an alternative scheme to overcome the unacceptable aspects of the appeal proposal. The applicant took this advice and met with officers resulting in the current scheme for three chalet bungalows.

### **Changes with the current application**

19. There are significant changes with the current application. There are three detached chalet bungalows instead of four semi-detached houses. The roof structure comprises part hipped and part gable end. The houses had a floor to eaves heights of 6.2m whereas the chalet bungalows floor to eaves height is 2.7m. The ridge height of the hipped parts varies from 5 – 5.6m with the gable ends varying from 5.8m – 6.2m. The combined length of ridge height development is 24.2m as compared with the refused scheme of 50m.

20. Officers contend that this is a significant difference with a reduced mass and bulk of buildings and more skylight visible from the houses in Trelawney Road compared with the appeal scheme. It will reduce sense of enclosure to Trelawney Lane and the impact on the outlook from the houses in Trelawney Road to a level that is acceptable and complies with Core Strategy policies CS15 and CS34.

### **Overlooking**

21. The matter of overlooking between the habitable rooms of the existing and new dwellings was not raised in detail in the Inspector’s decision letter. He referred to the windows in the new dwellings stating they would serve staircases and bathrooms assuming they would be in obscure glass. He did not refer specifically to the ground floor living room windows in clear glass.

22. An important aspect in this case is the relationship between the first floor bedroom windows in the houses in Trelawney Road to the windows in the proposed



dwellings. In each new chalet bungalow there are windows facing the lane but most are to bathrooms, en-suite shower rooms or halls/passages that will be glazed in obscure glass. But each plot has a kitchen/dining room window opposite the existing houses. Members are aware of the guideline in the Development Guidelines SPD of 21m between habitable rooms facing each other in paragraph 2.2.23. The standard can be relaxed at the fronts of dwelling facing each other across streets. This is an unusual case as the relationship is the rear for the existing properties but the front for the proposed dwellings but only across a narrow rear lane. If the habitable room windows were to remain in clear glass the distance of 12m in these circumstances is not sufficient to provide adequate protection against overlooking. To avoid loss of privacy all windows facing the lane shall be in obscure glass to be controlled by condition. Subject to this condition the application will comply with Core Strategy policies CS15 and CS34.

### **Living conditions - proposed dwellings**

23. The Inspector had concerns about the outlook from the proposed houses to the south west especially to the windows serving the kitchen/dining rooms. The gap between the houses and boundary wall is only 1-2m. He stated:

“ . . . this is an insufficient degree of separation which would result and a poor and oppressive outlook from within the living rooms of the properties, particularly the kitchen/diners which would rely on light and outlook from windows facing south-west.” (paragraph 60)

The applicant has responded to this finding by amending the scheme so that the kitchen/dining rooms have large patio doors in either the south east or north west elevations providing the main source of light with the windows facing the boundary wall being secondary and the lounges in the roof spaces. Officers consider that these changes ensure that the chalet bungalows will have a satisfactory outlook to comply with Core Strategy policies CS15 and CS34.

### **Transport**

24. The proposed building line has been set back to provide a margin of 1.2m, thus providing a pedestrian zone, clear of vehicles. This also allows cars to enter and leave the parking spaces, a 6 metre distance is required which is achieved in this instance. The service lane will need to be upgraded to a more level and suitable finish to encourage pedestrians and cycling.

25. The previous use of the commercial premises would have generated walking as well as vehicles but in order to promote sustainable travel for residential units, and the fact that the lane will be the primary means of access to the proposed dwellings, an upgrade of the lane will be required. A negative condition is attached to ensure that details of the upgrade (to include street lighting if required) are submitted to and approved in writing before commencement of development of the new detached dwellings (excluding the commercial conversion as it already exists) and furthermore all works must be complete prior to occupation of the dwellings.

26. The applicant will have to enter into a Section 278 Agreement (of the Highways Act 1980) with the Highway Authority to enable any alterations to the highway to be carried out by an approved contractor. The extent of the scheme will be from

Trelawney Road (at the south-east junction with Trelawney Lane) along the full frontage of the development site.

27. Transport officers have worked with the applicant to achieve suitable access and parking arrangements for the development to comply with policy to be secured by condition. Secure and covered cycle storage is also offered per unit and again this should be subject to a condition. The proposal complies with Core Strategy policies CS28 and CS34.

### **Wildlife and trees**

28. The site includes some natural growth on the boundary with the cemetery and a building, with a potential to contain bats. The application is accompanied with a phase one habitat survey and tree statement. No evidence of any significant wildlife or trees was found. An informative is, however, recommended to ensure that no natural growth on the boundary wall is removed during the nesting season for birds. A condition is also attached to ensure that the mitigation works included in the application are implemented to ensure compliance with policy CS19 in this respect. This includes native planting and nesting boxes for each of the new dwellings.

### **Impact on the cemetery**

29. With the previous application and appeal concerns were raised about the impact on the cemetery especially from the windows in the Parkview House facing the cemetery possibly having an overbearing and disrespectful effect on mourners and visitors to the graves. The Inspector concluded that he did not consider the presence of the boundary windows would be seen as unduly intrusive by users of the cemetery (paragraphs 47 – 48). He did not include this as a reason for dismissing the appeal.

### **Local finance considerations**

30. Local finance considerations are now a material consideration in the determination of planning applications by virtue of the amended section 70 of the Town and Country Planning Act 1990. This development will generate a total of approximately £41,251 in New Homes Bonus contributions for the authority. However, it is considered that the development plan, recent appeal decision and other material considerations, as set out elsewhere in the report, continue to be the matters that carry greatest weight in the determination of this application.

31. Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

### **Section 106 Obligations**

32. The proposed development would have direct impacts on local and strategic infrastructure and the environment requiring mitigation. This mitigation will be achieved through a combination of planning conditions and planning obligations

identified in a S106 agreement. Each planning obligation has been tested to ensure that it complies with the three tests set out in Reg.122 of the Community Infrastructure Levy Regulations April 2010. This approach was accepted by the Inspector with the appeal proposals (paragraph 29). The draft heads of terms have been changed to apply to the circumstances of this current application.

33. The impacts relate to the following areas:-

1. Primary schools – given the deficiency of school places in the locality ('Central and North East') from 2014 arising from projected population growth
2. Local green space – given the cumulative impact of development on existing green space
3. Childrens play space – given the cumulative impact on existing play facilities,
4. Playing Pitches – given the deficiency in playing pitch provision in the area.
5. Strategic green space - given the cumulative impact of development on the quality of environmental sites protected by legislation, particularly through increased recreational demands
6. European Marine Site - given the cumulative impact of development on the environmental quality of European Marine Site protected by legislation, particularly through increased recreational demands
7. Strategic sports facilities – given the cumulative impact of development on the city's sports infrastructure and current deficiencies in level of provision.
8. Strategic public realm – given the cumulative impact of development on the City Centre's public realm.
9. Strategic transport. – given the cumulative impact of development on the city's strategic transport infrastructure, particularly in the northern corridor.

34. The applicant has claimed that the development would be unviable with allowance for full mitigation of these impacts, which would costs in the order of £43,000, and therefore indicated that they wish to have the application considered under the Council's Market Recovery Scheme.

35. The Market Recovery Scheme has been extended until the Community Infrastructure Levy (CIL) operates from 1 June 2013. It sets out a framework to support the negotiation of Section 106 agreements where viability is an issue. It provides for reduced levels of contributions (up to 50% for a brownfield site) subject to a commitment to early delivery of the project.

36. The developer is prepared to commit to the early delivery of this project, and this is considered to be a weighty material consideration in its own right given current economic circumstances, sufficient to justify a limited relaxation of the

Council's policy requirements for mitigation of development impacts, in accordance with the Market Recovery Scheme. It will also bring the additional benefit of generating finance through the New Homes Bonus.

#### Heads of Terms

37. The following heads of terms have been negotiated, and considered to be acceptable. In this case the infrastructure priorities in the area are considered to be finely balanced with each planning obligation being discounted by 50% in accordance with the Market Recovery Scheme.

- i. Local schools contribution: £6,427 to be allocated to the provision of additional school places within the vicinity of the development.*
- ii. Local greenspace contribution. £1,676 to be allocated to the improvement of local green space.*
- iii. Local children's play space contribution. £1,199, to be allocated to the improvement of local play facilities.*
- iv. Local playing pitches contribution. £3,040, to be allocated to the provision of improved playing pitches in the area*
- v. European Marine Site contribution. £89, to be allocated to appropriate management measures for the Tamar Estuaries as identified in the Tamar Estuaries Management Plan.*
- vi. Strategic transport contribution. £2,815 to be allocated to the delivery of priority strategic transport interventions as identified in the LTP3 Transport Implementation Plan, specifically the Northern Corridor Whole Route Implementation Plan*
- vii. Strategic green space contribution. £3,737, to be allocated to the provision of strategic green spaces that help to take pressure off the designated environmental sites, as identified in the Plymouth Green Infrastructure Delivery Plan.*
- viii. Strategic sports facilities contribution, £2,389, to be allocated to the delivery of priority strategic sports facilities as identified in the Sports Facilities Strategy.*
- ix. Strategic public realm contribution. £285, to be allocated to the delivery of priority City Centre public realm improvements as proposed in the City Centre and University Area Action Plan.*

38. If the applicant/developer does not make a substantial start within two years from the date of permission they will be liable for the full level of contribution.

### **Equalities & Diversities issues**

39. The development brings about significant improvements to the access lane for all users. The development meets the requirement of policy CS15 in respect that the two ground floor flats will be to Lifetime Homes standards. There are no conflicts with CS34 in this respect.

### **Conclusions**

40. The proposed redevelopment of this has been a controversial matter. The Inspector's decision letter on the previous appeal (APP/N1160/A/12/2178011) (12/00568/FUL) is an important material consideration. It examined the issues thoroughly and formed the basis for the revised application and the structure of this report. He decided that the loss of the employment use of the land and use for housing would not conflict with Core Strategy policy CS05 and is acceptable as is the conversion of Parkview House into three flats subject to conditions. No fresh evidence has been submitted to rebut these findings and officers agree with them. He concluded that the living conditions by way of outlook for the affected existing properties in Trelawney Road and the proposed new houses would not be acceptable. The applicant carried out substantial changes to the proposal by changing the four 2 storey houses to three chalet bungalows which has reduced the harm to the outlook from the houses in Trelawney Road. The internal arrangements of the new chalet bungalows have been altered to achieve satisfactory living conditions for the future occupiers. Privacy between the existing and proposed dwellings will be safeguarded by conditions. Officers consider that the development complies with Core Strategy policies CS15 and CS34. The access, highway and parking arrangements are acceptable and comply with Core Strategy policies CS28 and CS34. The agreed heads of terms of the section 106 agreement will provide mitigation for the impacts of the development on local and strategic infrastructure in accord with Core Strategy policy CS33. For these reasons officers consider that the application is acceptable and recommended for approval.

### **Recommendation**

In respect of the application dated **26/02/2013** and the submitted drawings Drawing numbers 1216\_PO1, 1216\_PO2, 1216\_PO3, 1216\_PO4 and 1216\_PO5, design and access statement, contamination report, extended phase I habitat survey, arboricultural survey, employment land survey and lifetime homes provision report, it is recommended to: **Grant Conditionally Subject to a S106 Obligation, with delegated authority to refuse in the event that the S106 Obligation is not completed by 16/05/2013.**

### **Conditions**

#### **DEVELOPMENT TO COMMENCE WITHIN 2 YEARS**

(1) The development hereby permitted shall be begun before the expiration of two years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004, and due to concessions in Planning Obligation contributions/requirements under Plymouth's temporary Market Recovery measures.

#### APPROVED PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: I216\_PO1, I216\_PO2, I216\_PO3, I216\_PO4 and I216\_PO5.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CODE OF PRACTICE DURING CONSTRUCTION

(3) Prior to the commencement of the development hereby approved, a detailed management plan for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the management plan.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CONTAMINATED LAND

(4) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation shall not take place until sections 1 to 3 of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until section 4 of this condition has been complied with in relation to that contamination.

#### Section I. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
  - adjoining land

- groundwaters and surface waters
  - ecological systems
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).  
This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Section 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Section 3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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

#### Section 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of section 1 of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with section 3.

#### Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### ACCESS/HIGHWAY IMPROVEMENTS (5)

(5) No development shall take place on anyone of the chalet bungalows hereby permitted until the proposed access and improvements to the existing highway shown on the approved plans have been completed.

#### Reason:

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

#### STREET DETAILS

(6) No development shall take place on any one of the three chalet bungalows hereby permitted until details of the design, layout, levels, gradients, materials and method of construction and drainage of all roads and footways forming part of the development have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved details.

#### Reason:

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

#### COMPLETION OF ROADS AND FOOTWAYS

(7) All roads and footways forming part of the development hereby permitted shall be completed in accordance with the details approved under condition 6 above before the first occupation of the penultimate dwelling.

#### Reason:

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

#### PROVISION OF PARKING AREA

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

#### Reason:

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

#### CYCLE PROVISION

(9) No dwelling shall be occupied until space has been laid out within the site for that dwelling in accordance with the approved plans for a minimum of one bicycle per chalet bungalow and a minimum of two bicycles for the three flats to be securely parked and under cover. The secure area for storing bicycles shown on the



approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### RESTRICTIONS ON PERMITTED DEVELOPMENT

(10) Notwithstanding the provisions of Article 3 and Classes A, B, C, D, E and F of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargements, improvements or other alterations, including to the roof, porches, buildings within the curtilages or chimney, flue or soil or vent pipe shall be constructed to the any of the three chalet bungalows hereby approved.

Reason:

In order to protect the residential amenities of the nearby existing and proposed dwellings in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### OBSCURE GLAZING

(11) Notwithstanding the provisions of Article 3 and Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), all windows in the north east elevation of Parkview House, the two kitchen windows in the south east elevation of the first floor apartment 3 and the two bedroom 1 ground floor windows in the south east elevation of apartment 1 shall have fixed non-opening lower panes glazed in obscure glass which shall have an obscurity rating of not less than level 5 permanently, and all windows in the north east elevations of the three chalet bungalows facing Trelawney Lane shall at all times be obscure glazed (the glass of which shall have an obscurity rating of not less than level 5) and be non-opening unless the parts of the window which can opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason:

In order to protect the privacy enjoyed by the occupiers of the adjacent dwelling in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### DETAILS OF BOUNDARY TREATMENT

(12) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is first occupied. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the details of the development are in keeping with the standards of the vicinity in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### EXTERNAL MATERIALS

(13) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### NATURE CONSERVATION

(14) Prior to the commencement of development on any one of the three chalet bungalows hereby permitted a detailed management plan for the nature conservation mitigation and biodiversity enhancement of the site shall be submitted to and improved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

Reason:

To provide adequate nature conservation mitigation and biodiversity enhancement to comply with policy CS19 of the adopted City of Plymouth Core Strategy development plan document 2007.

#### LIFETIME HOMES

(15) The two ground floor apartments in Parkview House shall be built to Lifetime Homes standards in accordance with the submitted Lifetime Homes Provision report.

Reason:

To ensure that two Lifetime Homes are provided to comply with policy CS15 of the adopted City of Plymouth Core Strategy development plan document 2007.

#### INFORMATIVE: PUBLIC HIGHWAY ENGINEERING DETAILS

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

#### INFORMATIVE: PUBLIC HIGHWAY APPROVAL

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

#### INFORMATIVE: ROADWORKS

(3) Any of the roadworks included in the application for adoption as highways maintainable at public expense will require further approval of the highway engineering details prior to inclusion in an Agreement under Section 38 of the Highways Act 1980. The applicant should contact Plymouth Transport and Highways for the necessary approval.

#### INFORMATIVE: CODE OF PRACTICE

(4) The management plan shall be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web pages, and shall include sections on the following:

- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information;
- b. Proposed hours of operation of construction activities and of deliveries, expected numbers per day and types of all construction vehicles and deliveries, routes of construction traffic to and from the site (including local access arrangements, timing of lorry movements, and weight limitations on routes), initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, location of wheel wash facilities, access points, location of car parking for contractors, construction traffic parking, details of turning facilities within the site for site traffic and HGVs, and a scheme to encourage public transport use by contractors; and
- c. Hours of site operation, dust suppression measures and noise limitation measures.

#### INFORMATIVE: CONDITIONAL APPROVAL (5)

(5) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant [including pre-application discussions] [including a Planning Performance Agreement] and has negotiated amendments to the application to enable the grant of planning permission.

#### **Statement of Reasons for Approval and Relevant Policies**

The Inspector's decision letter on the previous appeal (APP/N1160/A/12/2178011) (12/00568/FUL) is an important material consideration. It examined the issues thoroughly and formed the basis for the revised application. He decided that the loss of the employment use of the land and use for housing would not conflict with Core Strategy policy CS05 and is acceptable as is the conversion of Parkview House into three flats subject to conditions. No fresh evidence has been submitted to rebut these findings and the local planning authority agree with them. He concluded that the living conditions by way of outlook for the affected existing properties in Trelawney Road and the proposed new houses would not be acceptable. The applicant carried out substantial changes to the proposal by changing the four 2 storey houses to three chalet bungalows which has reduced the harm to the outlook from the houses in Trelawney Road. The internal arrangements of the new chalet bungalows have been altered to achieve satisfactory living conditions for the future occupiers. Privacy between the existing and proposed dwellings will be safeguarded by conditions. Officers consider that the development complies with Core Strategy policies CS15 and CS34. The access, highway and parking arrangements are

acceptable and comply with Core Strategy policies CS28 and CS34. The agreed heads of terms of the section 106 agreement will provide mitigation for the impacts of the development on local and strategic infrastructure in accord with Core Strategy policy CS33. For these reasons the application is acceptable and the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

- CS28 - Local Transport Consideration
- CS33 - Community Benefits/Planning Obligation
- CS34 - Planning Application Consideration
- CS22 - Pollution
- CS19 - Wildlife
- CS05 - Development of Existing Sites
- CS01 - Sustainable Linked Communities
- CS02 - Design
- CS15 - Housing Provision
- SO11 - Delivering a sustainable environment
- SO2 - Delivering the City Vision
- SO4 - Delivering the Quality City Targets
- SO6 - Delivering the Economic Strategy Targets
- SO10 - Delivering Adequate Housing Supply Targets
- SO14 - Delivering Sustainable Transport Targets
- SPD2 - Planning Obligations and Affordable Housing
- SPD1 - Development Guidelines
- SPD3 - Design Supplementary Planning Document
- NPPF - National Planning Policy Framework March 2012