

# PLANNING APPLICATION REPORT



**ITEM: 04**

**Application Number:** 13/01025/FUL

**Applicant:** Eliot Design & Build Limited

**Description of Application:** Demolition of existing dwelling and erection of 22 no affordable/local needs dwellings with new access road and parking and external works

**Type of Application:** Full Application

**Site Address:** 273 TAVISTOCK ROAD PLYMOUTH

**Ward:** Budshead

**Valid Date of Application:** 02/07/2013

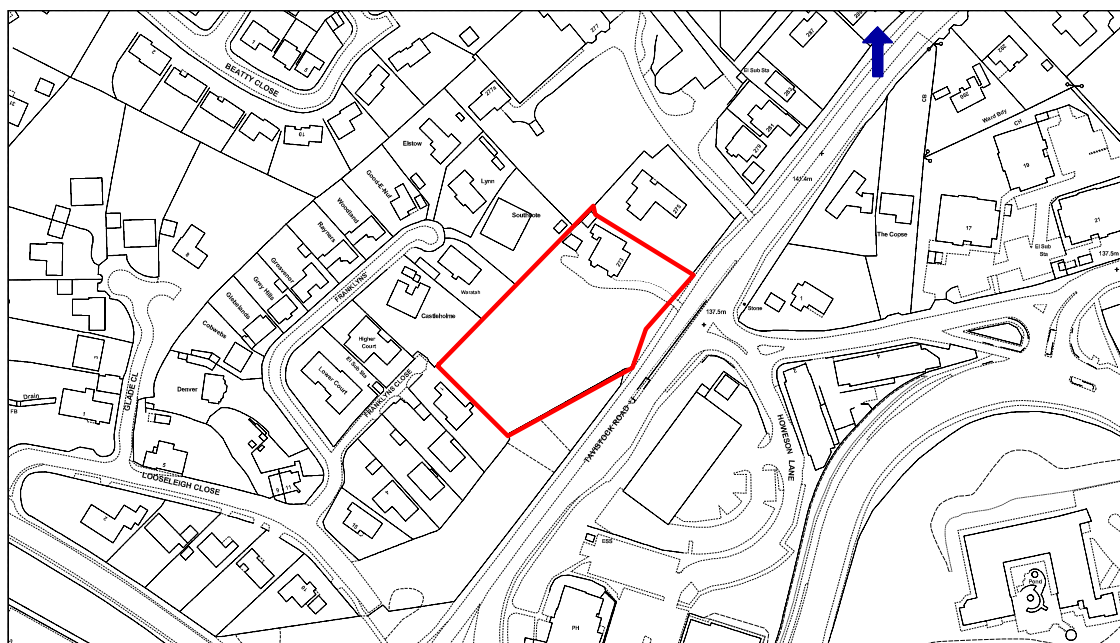
**8/13 Week Date:** **01/10/2013**

**Decision Category:** Major - more than 5 Letters of Representation received

**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 26/09/2013

**Click for Application Documents:** [www.plymouth.gov.uk](http://www.plymouth.gov.uk)



## **Site Description**

The site is on the northwest side of Tavistock Road 120 metres north of the Derriford roundabout. It has an area of 0.43 hectare with a frontage to Tavistock Road of 44 metres. There is housing to the north, west and south with the Mercedes Benz dealership to the east on the other side of Tavistock Road.

The site comprises a large Edwardian villa which is double-fronted and prominent when viewed from the south. This is boarded up and showing signs of deterioration. There is a large overgrown garden to the south which is enclosed by trees, vegetation, hedgebanks and a wall on the four boundaries. The properties in Franklyns to the north west are at a higher level by 2 – 3m. The property on the southern boundary, 1 Franklyns Close is close to the boundary but shielded by a high Laurel hedge 4 – 5 metres high.

The access is opposite the junction of Plymbridge Lane with Tavistock Road. There is a bus stop to the north and a light controlled pedestrian crossing to the south. There is a central reservation in Tavistock Road which tapers out about 20 metres to the north.

## **Proposal Description**

The proposal is to demolish the house and outbuildings and build 22 affordable dwellings in six terraces and one block of flats around the access road using the existing access point which would be improved. There would be four 2 bedroomed houses, 15 three bedroomed houses and three two bedroom flats. The three bedroom houses would have the third bedroom in the roof space. The houses would be 9m long by 5m wide by 5m to eaves level and 8.8m to ridge level. The flats building would be 12m wide by 7.6m deep by 6.8 – 7.1m to eaves level and 10.2m to ridge height. The materials are painted rendered walls and weatherboard cladding under an artificial slate roof with UPVC window frames doors and rainwater goods.

There would be 31 parking spaces off the access road to the front or side of the buildings.

The boundary trees and hedges will be retained and, where necessary reinforced with new planting. There will be a landscaped area in the eastern part of the site and new trees planted in front of the houses amongst the parking areas.

## **Pre-Application Enquiry**

There was a brief scoping meeting but the applicant did not use the development enquiry service and there were no pre-application negotiations.

## **Relevant Planning History**

13/00769 – FULL – Renewal of 13/01860 described below – STILL TO BE DETERMINED.

13/01860 – FULL - Conversion of existing house into two dwellings (including removal of existing two-storey side/rear extension and replacement with two-storey side extension and single-storey rear extension, and erection of 11 new

dwellings with associated parking and landscaping (renewal of 07/01397/FUL) – GRANTED subject to a S106 agreement.

07/01397 - Conversion of existing house into two dwellings (including removal of existing two-storey side/rear extension and replacement with two-storey side extension and single-storey rear extension, and erection of 11 new dwellings with associated parking and landscaping – GRANTED , subject to a Section 106 agreement – Not implemented.

06/01714/FUL - Redevelopment of site (following demolition of house) with 24 flats, in two three storey blocks, with associated access road and car parking areas. WITHDRAWN.

## **Consultation Responses**

### **Environment Agency**

No objection subject to a surface water drainage condition.

### **Local Highway Authority**

No objection subject to conditions on street details, constructor's access, car parking provision, cycle provision and informatives. A section 106 contribution of £29,000 would be sought for local public transport infrastructure improvements if it could be achieved, subject to viability,

### **Public Protection Service**

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

### **South West Water**

No objection but surface water drainage cannot connect to the mains drainage and as a sewer crosses the site it will have to be diverted.

## **Representations**

There are 10 letters of representation including one signed by 11 local residents raising the following points:

1. Increase in density is excessive and out of character with the area;
2. Increase in congestion on the busy A386;
3. Increased risk of accidents on the A386;
4. People travelling south to the city centre will be tempted to do a U turn on the A386;
5. Loss of mature trees;
6. If one of the trees is a field maple it should be retained;
7. Can trees subject to a tree preservation order be removed?
8. It is possible that some of the boundary trees are in adjoining properties;
9. Harmful effects on bats that use the site;
10. Loss of privacy;
11. Loss of light;
12. The site is not suitable for family housing owing to the lack of facilities in the area;

13. The Japanese knotweed on the site needs to be removed; if it spreads to adjoining properties those owners can pursue the owners of the site for any damage to property;
14. Part of the boundary bank has collapsed; if the applicant stabilises it with a wall, fencing and new tree planting this will solve the problem;
15. Putting in two applications at the same time is a “devious trick” so residents concentrate their objections to this application which is for more dwellings (as compared with the renewal for 14 dwellings, reference 13/00769); and
16. Loss of view.

## **Analysis**

### **Introduction**

1 The main issues with this application are: the principle of development; the impact on the character and appearance of the area and visual amenity including design issues; effect on living conditions of the existing and proposed properties; transport matters; trees and nature conservation; and the section 106 planning obligations and viability.

2 The main Core Strategy policies and strategic objectives are: SO1 Delivering Plymouth’s Strategic Role, SO2 Delivering the City Vision, SO3 Delivering Sustainable Linked Communities, CS01 Development of Sustainable Linked Communities, SO4 Delivering the Quality City, CS02 Design, Area Vision 9 – Derriford/Seaton, SO10 Delivering Adequate Housing Supply, CS15 Overall Housing Provision, CS16 Spatial Distribution of Housing Sites, SO11 Delivering a Sustainable Environment, CS18 Plymouth’s Green Space, CS19 Wildlife, CS20 Sustainable Resource Use, CS21 Flood Risk, CS22 Pollution, SO 14 Delivering Sustainable Transport, CS28 Local Transport Considerations, CS32 Designing Out Crime, CS33 Community Benefits/Planning Obligations, CS34 Planning Application Considerations. The Derriford and Seaton Area Action Plan is relevant as this site is just outside the Plan’s area on its edge. There are several parts of the National Planning Policy Framework relevant to the proposal. The guidance in the three Supplementary Planning Documents (SPDs) on Development Guidelines, Planning Obligations and Affordable Housing first review and Design also applies.

### **Principle of development**

3 The house is not listed or in a conservation area. The proposal to demolish it is unfortunate but would not cause sufficient harm to warrant a reason for refusal.

4 When the previous application was determined in 2010 the garden part of the site was excluded from the development of previously developed land (PDL) in the definition of PDL in Annex B of Planning Policy Statement (PPS) 3 Housing. This change was a material consideration. Since then the Government has cancelled the PPSs and replaced them with the National Planning Policy Framework (NPPF). On the issue of gardens it states that: “. . . local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens . . .”

5 There is no specific policy in the Core Strategy on the development of gardens. In the absence of a specific development plan policy preventing the development of the

gardens of dwellings it would be unreasonable to refuse permission simply because it is garden land without sound defensible reasons. It is important to state that national and local policies do not rule out development on garden land automatically. Any such developments will be determined in accordance with the policies in the Adopted Core Strategy, and other published guidance, and will continue to be dealt with on their individual merits, for example, taking into account the details of the scheme and its effect on the character and appearance of the area.

6 In the period 2006-2012 only 2% of all dwellings (121 dwellings) completed in Plymouth have been on garden land, thus it has not been the major issue that it has been in other areas.

7 The site is 0.43 ha which is much larger than those in the immediate surroundings that average about 0.072ha, so it is six times larger and represents a feasible development site.

8 The existing density of the surroundings is low and it is accepted that the density of development would be greater than its surroundings. The LPA decided in 2007 and 2010 that development of this site at a higher density was acceptable. The Sustainable Neighbourhood Appraisal findings for Derriford indicate that there is a limited choice of house types as they are mainly owner-occupied at low density with little affordable housing. The proposal supports the possible objectives of: the new housing helping to support local services; and providing a greater variety of housing in the form of 100% affordable homes in terraced houses and flats at an acceptable higher density.

9 The proposal supports Plymouth's growth agenda in seeking to achieve 10,000 new homes by 2016 and the site is located in the Derriford/northern corridor priority location to comply with policy CS16. It is considered that the principle of the development complies with Core Strategy policies CS01, CS15 and CS16 and paragraphs 47 – 53 of the National Planning Policy Framework (NPPF).

### **Character and appearance**

10 The density is higher than the existing low density but this is not reason alone to justify refusal. The existing density of the surroundings is low at 14 dwellings per hectare (dph) and it is accepted that the density of development would be greater than its surroundings at 51 dph. The LPA decided in 2007 and 2010 that development at a higher density was acceptable. This compares with the new housing nearby on at the former runway land at Plymouth City Airport off Plymbridge Lane which is at a density of 50 dph. The gross density for Derriford is about 12 dph. For other areas of the city it ranges from 45 dph in Mutley and Greenbank, 40 dph in Peverell and 19 dph in Widewell. The NPPF aim of sustainable development states in paragraph 58 that developments should optimise the potential of sites to accommodate development. Core Strategy SO10.2 states that developments should promote the highest density of development compatible with the creation of an attractive living environment.

11 It is a relatively self-contained site with the main impact being on the adjoining properties and this matter is covered in the sections below. Residents believe that the proposal is over-development of the site but it has a limited impact on public

viewpoints because the site is so well screened by mature vegetation so the main effect would be the roofs and parts of the first floors appearing above the hedge and trees fronting Tavistock Road. This is to be expected in this part of the city where substantial growth and development is proposed and the character will continue to change. Within the site the access road curves round with blocks E and F forming an end stop. The buildings front the road would provide a good sense of enclosure with adequate surveillance.

12 The buildings are of a traditional design and officers consider that the three bedroom houses and flats building have a good level of articulation and rhythm with the projecting gables, subordinate dormer windows and canopies. The two bedroom terrace is somewhat bland and the architects are looking into improving the design to add more interest to this elevation. Members will be updated on this matter at the meeting.

13 The materials of coloured render, weather boarding and artificial slate roofs are considered by officers to be acceptable and in keeping with the surroundings. The hard surfacing would be bitmac with variety provided with brick paviors for the parking spaces. The hard surfacing would be softened with street trees and areas of soft landscaping in the eastern parts of the site.

14 The design and appearance of the development would reflect the identity of the local surroundings and materials and would not harm the visual amenity of the area and complies with Core Strategy policies CS01, CS02 and CS34 and paragraphs 56 – 66 of the NPPF.

### **Living conditions of the existing adjoining properties**

15 The layout is different from the approved scheme as the houses would be located closer to the boundaries. Plots 7 – 12 are seven metres in from the north western boundary. These affect the properties in Franklyns of 'Castleholme', 'Waratah' and 'Southcote'. The relationship is unusual in that these properties' main aspect is north east to south west. The elevation facing the site is south east. These are the gable ends but do include a few windows and the owners have added conservatories. The site is two – three metres lower than the adjoining dwellings and there is a mature hedge including trees on the boundary that will be retained and reinforced; this will be safeguarded by condition. 'Castleholme' faces the gable end of plot 13 with a gap of 25m and the new house would be about 3m lower than 'Castleholme'. This relationship is considered by officers to be acceptable and complies with the Development Guidelines SDP. 'Waratah' is 20m from plots 10 – 12. As the relationship is more akin to the proposed habitable rooms facing gable ends this is considered to be acceptable especially given the change in levels and intervening screening. 'Southcote' is 17m – 20m from plot 7 with the window about 19m from this plot. For the same reasons as applies to 'Waratah' above this relationship is also considered to be acceptable.

16 1 Franklyns Close adjoins the south western boundary and is positioned close to it. Plots 13 – 19 are set in 10m from the boundary and 13.8m from 1 Franklyns Close. There is a high laurel hedge four to six metres high on the boundary. This will be retained and reinforced by condition. Although not a planning matter and, for members information, on a private civil matter the applicant has agreed with this

adjoining owner to transfer a strip of 1.5m of land including the hedge to him with a fence on the new boundary. There would be a restrictive covenant that the hedge shall be retained to a minimum height of 4m.

17 No 275 Tavistock Road adjoins the north eastern boundary and is dominated by the mature vegetation including evergreen trees. The existing large two storey house is close to the boundary. Plots 4 – 6 in block B are two storey and set further away from the boundary and improve upon the current position. Block A containing the three flats is three storeys and is set further away from the boundary by 4 – 10m as compared with the existing distance of 2.5 – 4.8m. The building is higher with eaves and ridge levels of 6.8m and 10.2m as compared with 6.5m and 8.5m. So the building will be about 1.7m higher than the existing house. But as it is further away from No 275 than the existing building and the effective boundary screening officers do not consider there would be undue over-dominance as compared with the current position.

18 There would be no habitable rooms above the ground floor facing No 275 so officers consider there would be no loss of privacy.

19 For these reasons officers consider that the proposals would not cause an undue harm to the living conditions of the existing properties and therefore comply with Core Strategy policies CS01, CS15 and CS34.

### **Living conditions of the proposed properties**

20 This is a scheme of a high density relative to its surroundings so some of the spatial relationships are tight. Block G containing plots 20 – 22 is opposite plots 7 – 10 across the access road. As there is on-street parking the separation between the fronts of these houses is 16m which is considered to be acceptable. Owing to the site layout there are no instances of overlooking between the backs of the properties. Plots 13 – 15 face the gable end of plot 12. Officers sought to increase the space from the original distance of 8.6m. The gap is now 10.4m which is the maximum that the applicant can achieve. The Development Guidelines state a guideline of 12m. The main habitable room window affected is a bedroom as the ground floor window is to a small kitchen. In this instance the degree of separation is considered to be acceptable. As a result of the density nine of houses would have amenity areas of less than 40 sq m against the guideline of 50 sq m. But they all have secluded rear gardens that are not over-looked. This is a shortcoming but is not considered to cause serious harm to the living conditions of the proposed residents to warrant recommending to refuse permission. As such officers consider that the proposal, on balance, complies with Core Strategy policies CS01, CS15 and CS34 concerning the residential amenity of the proposed properties.

### **Transport and highways**

21 The previous application submitted for residential development on this site would have resulted in the creation of an additional 13 units on the site. The 22 affordable housing units now being proposed represents an increase of 9. In traffic terms this represents an increase of just 4-5 trips in the morning and evening peak traffic hours. This is not considered to be material and thereby give rise to any capacity issues on the A386.

22 On the basis that each of the 22 units will have 2 or more bedrooms, a maximum of 44 spaces would be required to serve the development based upon application of the parking standards outlined within the Development Guidelines SPD. Although the 31 spaces proposed represents a car parking standard of just 1.4 spaces per unit, it is acknowledged that all of the units on the site will be affordable and that the viability of the scheme could be affected if units are lost as a result of providing more car parking on-site. Therefore on balance it is the view of the Highway Authority that the level of car parking proposed is acceptable particularly as site is well served in terms of public transport.

23 It is recommended that a condition should be attached relating to the need for some secure and covered cycle parking to be provided on-site at a standard of 1 space per unit (in respect of the houses this could be achieved through the provision of a garden shed).

24 It is noted that part of the site access road is being offered for adoption by the Local Authority and therefore a Section 38 Agreement will be required.

25 With regard to the layout the possible lack of identifiable areas within which services (gas, water, electricity etc) can be located must be addressed as it's preferable to locate them within footways/service margins rather than the adopted highway. This matter along with any other points of detail on the layout, can be dealt with at the S.38 stage. It should also be noted that if soakaways are being used to drain the adopted highway then they must be situated in publically accessible areas.

26 The applicant's architect has been provided with a plan showing the extent of the land that is required along the Tavistock Road frontage of the development for the Derriford Roundabout Improvement Scheme. In order to safeguard the necessary land for this scheme it is recommended that the area of land in question on the eastern part of the site be subject to a Highway Dedication under Section 30 of the Highways Act 1980.

27 In addition to the area of land required for the improvement scheme, an additional 2m 'working strip' will also be required in order to allow the works to take place. Once complete this strip of land will be returned to the adjoining land owner. The property deeds for units 20-23 will need to make reference to this requirement.

28 The development would undoubtedly lead to an increase in demand for the use of public transport. Ideally a contribution of £29,000 should be made to fund public transport improvements to the bus stop close to the site. If this were a development for open market housing this would be sought. But as it is for 100% affordable housing such a contribution could make the scheme unviable and prevent it from being delivered. Notwithstanding this matter and subject to conditions the application is acceptable in transport and highway terms to comply with Core Strategy policies CS28 and CS34 and NPPF paragraphs 29 – 41.

### **Affordable Housing and Lifetime Homes**

29 A positive and favourable aspect of this application is that all the units will be affordable homes in an area that has few such dwellings. This is reflected in the 2011



census data for the Derriford West and Crownhill neighbourhood, which states that only 13% of the housing stock is classified as affordable housing compared with all other housing types. The inclusion of both social rent and shared ownership is welcomed as this will help provide a range of affordable housing choices. In addition all of the dwellings would be built to meet the Lifetimes Homes standards to extend the range of people, particularly the elderly and those with disabilities, who would be able to live in them. As such the application more than meets the policy requirements of the provision of at least 30% affordable homes and 20% Lifetime Homes to be compliant with Core Strategy policies CS01 and CS15 and NPPF paragraph 50.

### **Trees**

30 The trees on the site are protected by Tree Preservation Order 445. There are trees on the boundaries and within the site. Those on the boundary comprising Yew Oak, Ash and Sycamore will be retained. There are other trees within the site and a group on the western part of the site that will be felled to accommodate the development. Additional planting will occur as compensation particularly along the north western boundary which will be reinforced and within the site to be secured through the landscaping conditions. The retained trees will be protected during the construction phase by appropriate fencing. There are tall mature trees comprising a Pine, Western Red Cedar and Ash on the north eastern boundary in the adjoining property protected by TPO No 36: these too would have to be protected. Subject to these safeguards the application would comply with Core Strategy policy CS18.

### **Nature conservation**

31 The retention of the mature trees and hedgebanks together with new planting would provide a habitat to encourage wildlife.

32 There is evidence that the building has been used as a minor night/day roost by one or a small number of lesser horseshoe bats. As this is a protected species the building housing the roost cannot be destroyed until the applicant/has obtained a European Protected Species (EPS) licence from Natural England in accordance with the Wildlife and Countryside Act 1981 and/or the Conservation of Habitats and Species Regulations 2010. To mitigate the loss of the roost a new bat shed will be provided in the north west corner of the site. The applicant/developer would need to instruct a licenced bat worker to advise on the demolition works and protection of the bats.

33 There is a minor outlying badger sett in the south eastern part of the site. Retention in a domestic garden is not desirable and is unlikely to be sustainable. It is an offence to damage, destroy or block access to a badger sett. It is likely that the sett would be closed but this would need to be supervised by a qualified ecologist and subject to the appropriate licence from Natural England.

34 Other mitigation and enhancement measures include the installation of bat boxes on the gable ends of the buildings and 6 bird boxes would be attached to the mature trees on the boundaries.

35 There are at least two small areas of Japanese Knotweed which is an invasive weed that must be destroyed and removed by a specialist contractor.

36 These measures would safeguard the protected species and provide adequate biodiversity to comply with Core Strategy policy CS19 and NPPF paragraphs 117 – 118.

### **Other matters**

37 The development would meet the on-site renewable energy production by the use of photovoltaic panels to achieve a 16.3% reduction in carbon dioxide emissions to comply with Core Strategy policy CS20. Surface water drainage would be provided by Sustainable Urban Drainage System. The Environment Agency is satisfied that the site could accommodate a satisfactory surface water drainage system to avoid increasing the risk of flooding off-site to comply with Core Strategy policy CS21 and NPPF paragraph 103.

38 The relevant concerns raised by the local residents are covered in the above sections of this report.

39 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.

### **Local Finance Considerations**

40 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.

### Section 106 Obligations and Viability

41 The development is for 100% affordable homes and the applicant has agreed to heads of terms securing this. This clearly affects the viability of the scheme in terms of the availability of funds to mitigate the impacts of the development on the local and strategic infrastructure. Officers have sought the advice from service providers on what specific mitigation measures they would be seeking and their justification to comply with the three Regulation 122 tests of the Community Infrastructure Levy (CIL) Regulations 2010. These are that:

1. The obligation is necessary to make the development acceptable in planning terms;
2. The obligation is directly related to the development; and
3. The obligation is fairly and reasonably related in scale and kind to the development.

42 Replies were received from Education and the Local Highway Authority. As it is a 100% affordable housing development the Education service is not requesting a contribution for schools. The LHA would require £29,000 for improvements to the bus stop close to the site. Contributions for local green infrastructure would be

£13,380, £29,850 for strategic infrastructure and £707 for the European Marine Site. This gives a total of £72,937. The management fee would be £4,600.

43 The applicant submitted a late viability appraisal just before the report was prepared and officers were still negotiating the heads of terms. Officers will update members at the committee meeting. As it is a development of 100% affordable homes this will affect the scheme's viability. It is most unlikely that the development could sustain a contribution of nearly £73,000, if anything at all. Paragraph 16.12 of the Core Strategy allows for the local planning authority to take into account viability matters in S106 negotiations. This is re-stated in the Planning Obligations and Affordable Housing SPD Second Review. It is also reinforced in paragraphs 173 – 177 of the NPPF relating to sites identified in plans, which officers believe are also applicable to application sites, where viability should not be threatened and the requirements for affordable homes, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to enable the development to be deliverable.

#### Community Infrastructure Levy

44 The CIL is estimated to be £51,750. It is noted that the applicant has indicated that they intend to apply for social housing relief on the CIL form for all of the floor space. If the request for relief is successful the final liability will be £0.

#### New Homes Bonus

45 The estimated New Homes Bonus is £191,059.

46 It is considered that the development plan 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.

#### **Equalities & Diversities issues**

47 The development is for 100% affordable homes and Lifetime Homes so will provide dwellings for a range of people including those who are less affluent, young families, elderly and those with disabilities and mobility difficulties.

#### **Conclusions**

48 The principle of the development is acceptable as it will help to achieve the Council's growth strategy for more housing in the Derriford/northern corridor priority location on a site that has permission for additional homes to comply with policies CS15 and CS16 and the NPPF. The development provides the benefits of smaller family dwellings which will be 100% affordable homes built to Lifetime Homes standards in an area deficient in this type and tenure of housing.

49 Officers understand residents' concerns that the application is for a layout at a higher density than the surrounding area which comprises detached houses and bungalows. Some of the spatial arrangements with and between the proposed dwellings are tight and do not meet fully the Council's development guidelines. However it is considered that the proposal would not harm the character and appearance of the area given the changes taking place at Derriford where considerable development is proposed in the Derriford and Seaton Area Action Plan. New development is already occurring at a greater density at the student housing

bounded by Plymbridge Lane and Derriford Road and the new housing at Plymouth City Airport on the former runway land. In this context it is considered that the application complies with policies CS01, CS02, CS34 and the NPPF. Given the relatively enclosed nature of the site, the spatial arrangements with the existing dwellings and level differences it is considered that the proposal would not cause undue harm to the living conditions of the existing or proposed properties to comply with policies CS01, CS15 and CS34.

50 The applicant will dedicate part of the site to the Council for highway purposes, in the public interest, to assist with the proposed junction improvements at the Derriford roundabout. The access, transport and parking arrangements are acceptable subject to conditions to accord with policies CS28 and CS34. The protected trees and hedges on the boundaries will be retained and, where necessary, reinforced. Those lost would be replaced. This and the new landscaping would provide a habitat for wildlife to provide adequate biodiversity and the protected species will be safeguarded to comply with policies CS18 and CS19 and the NPPF.

51 As the development is for 100% affordable homes this affects its viability in terms of section 106 obligations to mitigate the impacts of the development on local and strategic infrastructure such that it is likely that only limited mitigation could be provided. Viability and deliverability is becoming a material consideration of considerable weight in the determination of applications. If this application were over-burdened with obligations it could make it non-viable.

52 This is a balanced case and officers consider that the benefits of the proposal, in particular the provision of affordable homes, outweigh the disadvantages and it is recommended that conditional permission be granted. If the S106 agreement is not completed by 26 September or the applicant has not agreed to an extension of time for the local planning authority to determine the application, it will be refused by failing to ensure that the affordable homes would be secured legally.

### **Recommendation**

In respect of the application dated **02/07/2013** and the submitted drawings 1279/S-02, 1279/S-01, 1279/PL-10 Rev C, 1279/PL/11, 1279/PL-12, 1279/PL-13, 1279/PL-14 Rev B, 1279/PL-15, 1279/PL-16, 1279/TP 01, planning statement, design and access statement, extended phase I habitat survey, ecological mitigation and enhancement strategy, energy statement, Phase I Desk Study & Phase II Site Investigation Report, tree report, tree survey, code for sustainable homes summary checklist, 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 26/09/2013**

### **Conditions**

#### **DEVELOPMENT TO COMMENCE WITHIN 3 YEARS**

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

#### APPROVED PLANS

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1279/S-02, 1279/S-01, 1279/PL-10 Rev C, 1279/PL/11, 1279/PL-12, 1279/PL-13, 1279/PL-14 Rev B, 1279/PL-15, 1279/PL-16, 1279/TP 01].

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 1. 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.

#### GOOD ROOM NOISE CRITERIA

(5) All dwellings shall be constructed in accordance with BS8233:1999 so as to provide sound insulation against externally generated noise. The good room criteria shall be applied, meaning there must be no more than 30 dB Laeq for living rooms (0700 to 2300 daytime) and 30 dB Laeq for bedrooms (2300 to 0700 night-time), with windows shut and other means of ventilation provided. Levels of 45 dB Laf.max shall not be exceeded in bedrooms (2300 to 0700 night-time).

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007.

#### SCHEME TO ACHIEVE GOOD ROOM NOISE CRITERIA

(6) Before the commencement of the development hereby permitted the applicant/developer shall submit a scheme to be approved in writing by the local planning authority which specifies the provisions to be made for the insulation of sound from nearby sources to comply with condition 5.

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007.

#### SURFACE WATER DRAINAGE

(7) Before the development hereby approved is commenced, details of a scheme for the management of the site's surface water shall be submitted to an approved in writing by the Local Planning Authority. The details shall include as a minimum:  
Details of the final drainage scheme, including pathways and flow routes for excess surface water during extreme weather;  
A construction quality control procedure; and  
A plan for the future maintenance of the system and of any overland flow routes.

Prior to the occupation of the site it shall be demonstrated to the satisfaction of the Local Planning Authority that the scheme is completed in accordance with the agreed details. The scheme shall thereafter be maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason:

To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development to comply with policy CS21 of the adopted City of Plymouth Core Strategy Development Plan Document 2007.

#### STREET DETAILS

(8) No development shall take place 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

#### ACCESS (CONTRACTORS')

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

Reason:

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

#### DETAILS OF NEW JUNCTION

(10) No development shall take place until details of the junction between the proposed service road and the highway have been approved in writing by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason:

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

#### COMMUNAL CAR PARKING PROVISION

(11) No dwelling shall be occupied until space has been laid out within the site in accordance with [the approved plan][details previously submitted to and approved in writing by the Local Planning Authority] for a maximum of 31 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.

Reason:

In the opinion of the Local Planning Authority, although some provision needs to be made, the level of car parking provision should be limited in order to assist the promotion of sustainable travel choices in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CYCLE PROVISION

(12) No dwelling shall be occupied until space has been laid out within the site in accordance with details which will have been previously submitted to and approved



in writing by the Local Planning Authority for 22 bicycles to be securely parked. 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.

#### EXISTING TREE/HEDGEROWS TO BE RETAINED/PROTECTED

(13) In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the commencement of development.

(a) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with BS 3998: 2010 Tree Work Recommendations.

(b) If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or pruned in breach of (a) above in a manner which, in the opinion of the Local Planning Authority, leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of barriers and ground protection for any retained tree or hedgerow shall be undertaken in accordance with the approved plans and particulars plan no 1279 (TP) 01 and the Arboricultural Method Statement before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 are protected during construction work and thereafter are properly maintained, if necessary by replacement.

#### RETENTION OF HEDGE ON SOUTH WEST BOUNDARY

(14) The existing hedge on the south west boundary with I Franklyns Close shall be retained to a height of between four to five metres above ground level permanently.

Reason:

To protect the privacy and living conditions of the adjoining property to comply with policies CS15 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007.

#### DETAILS OF BOUNDARY TREATMENT

(15) 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 details shall include the types of species, numbers of plants and trees, planting distances, methods of planting and maintenance for the reinforcement planting on the north west boundary. 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.

#### LANDSCAPE WORKS IMPLEMENTATION

(16) All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing number 1279/PL - 16 Rev X. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

#### Reason:

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

#### LANDSCAPE MANAGEMENT PLAN

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

#### Reason:

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

#### MAINTENANCE SCHEDULE

(18) No dwelling shall be occupied until a schedule of landscape maintenance for a minimum of five years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

#### Reason:

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

#### EXTERNAL MATERIALS

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

#### Reason:

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

#### SURFACING MATERIALS

(20) No development shall take place on the superstructure of the development hereby permitted until details/samples of all materials to be used to surface external areas 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.

#### RESTRICTIONS ON PERMITTED DEVELOPMENT

(21) Notwithstanding the provisions of Article 3 and Classes A, B, C and E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended in 2008 and 2013 (or any order revoking and re-enacting that Order with or without modification), no enlargements, improvements or other alterations, including to the roof, shall be constructed to the dwelling houses hereby permitted or any building, enclosure, swimming or other pool (except for a small structure of not more than 1.8m by 1.2m by 1.8m to store a bicycle) constructed within the curtilages of the dwellinghouses hereby permitted.

#### Reason:

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

#### LIFETIME HOMES

(22) A minimum of five dwellings shall be built to Lifetime Homes standards as set out in Appendix A of the Design and Access Statement.

Reason To ensure that a minimum of 20% of the dwellings will be built to Lifetime Homes standards to comply with policy CS20 of the adopted City of Plymouth Core Strategy Development Plan Document 2007.

#### RENEWABLE ENERGY

(23) The approved on-site renewable energy production for each dwelling house and the flats in Block A shall be provided in accordance with the details in the Energy Statement dated 17 July 2013 prior to the first occupation of that dwelling or Block A and thereafter retained and used for energy supply for so long as the development remains in existence.

Reason:

To ensure that the development incorporates onsite renewable energy production equipment to off-set at least 15% of predicted carbon emissions for the period 2010-2016 in accordance with Policy CS20 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and relevant Central Government guidance contained within PPS22.

#### NATURE CONSERVATION

(23) The development shall be carried out in accordance with the Extended Phase I Habitat Survey, Ecological Mitigation and Enhancement strategy for the site received on 12 August 2013.

Reason

In the interests of the retention, protection and enhancement of wildlife and features of biological interest, in accordance with policies CS01, CS19, CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007 and Government advice contained in the NPPF.

#### INFORMATIVE: PROPERTY RIGHTS

(1) Applicants are advised that this grant of planning permission does not over-ride private property rights with particular regard to the boundary treatment or their obligations under the Party Wall etc. Act 1996.

#### BOUNDARY TREATMENT DISCUSSION WITH ADJOINING OWNERS

(2) The applicant/developer is advised to discuss the boundary treatment with the adjoining owners to seek to achieve their agreement before submitting the details in accordance with condition X.

#### INFORMATIVE: CODE OF PRACTICE

(3) 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.

#### COMPLIANCE WITH PROTECTED SPECIES LEGISLATION

(4) The applicant is advised that this grant of planning permission does not override the applicant/developer's obligations under the Wildlife and Countryside Act 1981 as amended, Protection of Badgers Act 1992 and the Conservation of Habitats and Species Regulations 2010 in relation to the protected species and the requirements to obtain licences from Natural England in dealing with the protected species on this site.

#### DIVERSION OF THE SEWER

(5) The applicant/developer is advised to contact South West Water regarding the diversion of the sewer that crosses the site before work begins on the development.

#### ROADWORKS

(6) 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

#### HIGHWAYS ACT 1980 SECTION 30 DEDICATION ORDER

(7) The land required for the construction of the Derriford Roundabout Improvement Scheme along the frontage of the site should be secured through a Section 30 Dedication Agreement of the Highways Act 1980.