

PLANNING APPLICATION REPORT



Application Number 14/01264/FUL

Date Valid 18/07/2014

Item 02

Ward St Peter & The Waterfront

Site Address CRESCENT POINT, THE CRESCENT PLYMOUTH

Proposal Erection of two development blocks, comprising 348 student bedrooms and up to 4 ground floor units (to include use class A1, A2 and A3) plus associated infrastructure, site access, car park and landscaping

Applicant Concierge 35 Ltd

Application Type Full Application

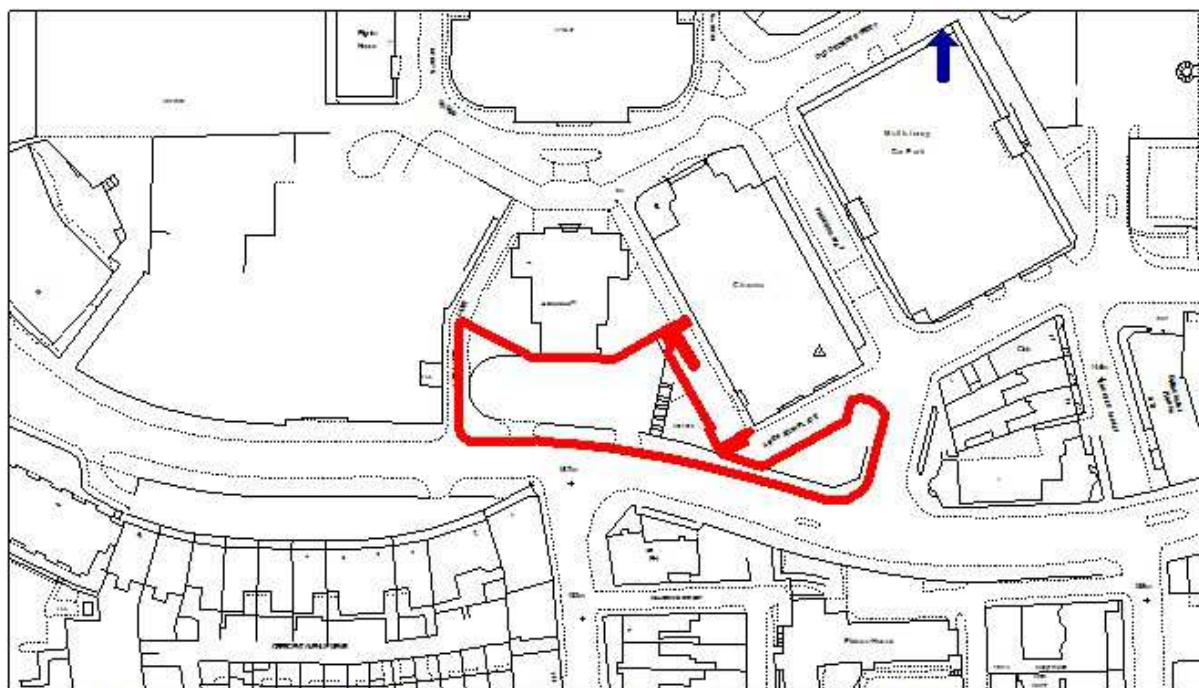
Target Date 17/10/2014 **Committee Date** Planning Committee: 25 September 2014

Decision Category Major - more than 5 Letters of Representation received

Case Officer Karen Gallacher

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 October 2014

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1. Description of site

The application site is an irregular shape and comprises 0.14ha. The site has two component parts: the extent of the former Crescent Cars Garage which comprises the western part of the site and an existing, car park which forms the eastern part of the site

The site falls within the within the Leisure and Civic District of the Plymouth City Centre and University Area Action Plan. It is also within the Tall Building Zone as defined by the Design Supplementary Planning Document. The Hoe Conservation Area lies immediately to the south.

To the north of the site is the three storey Plymouth Athenaeum Theatre and the Reel Cinema. To the east, beyond Princess Way, is a three and a half storey office block.

Immediately to the south are the buildings of The Crescent, number 1 The Crescent is a Grade 2* listed building and the remainder of the terrace is Grade 2. Immediately to the west of the site land is the former Television South West vacant site.

Land drops away from The Crescent / Notte Street and the current site level is lower than that of the street. The topography of the Plymouth is such that the site is located on the downward slope from The Hoe to the south towards the Royal Parade to the north.

2. Proposal description

The development proposal comprises two blocks of accommodation for 348 students in total, with mixed retail (A1 shop, A2 office and A3 café and restaurant) use at ground floor. The scheme has been amended to remove A4 public house/bar and A5 hot food takeaway uses following advice from consultees and officers.

Block A comprises a 10 storey west wing, a 14 storey central tower and an 11 storey east wing. It would provide a total of 288 student bedrooms. The lower ground floor would largely comprise amenity facilities including refuse storage, plant area, a laundry area, 3 disabled parking bays, and 76 cycle parking spaces. The ground floor of Block A will comprise the main entrance to the student accommodation, the reception

area and associated offices, a student lounge, and 2 retail units. The upper floors of Block A are proposed to provide 288 student accommodation rooms. These comprise a mix of studio units and 4 bed cluster flats of between 12 and 14.5 sqm in size with shared kitchen/lounge area.

Block B will be situated in the eastern part of the site and will have a height of 11 storeys, providing a total of 60 student accommodation rooms.

The lower ground floor will largely comprise amenity facilities similar to block A.

The ground floor of Block B is proposed for retail use with entrance on the southern elevation off The Crescent. The first to tenth floors of the development will all be identical. Each floor will contain 6 studio bedrooms of between 16.5 and 17.3sqm in size. Each studio room will have private bathroom and kitchen space.

Externally, hard landscaping works would be undertaken around the proposed development. These would include the provision of a new pavement around the entire development to allow access by pedestrians to both the front and rear of both buildings. Access to the lower ground floors of both buildings would be provided from Athenaeum Place. Street furniture including benching, planters, low level lighting and bicycle stands are proposed. Bollards would also be provided to deter on-street parking on The Crescent.

The elevational treatments proposed include Plymouth limestone at ground floor level, curtain walling, spandrel panelling, composite stone cladding and zinc effect panelling.

These details have been amended following discussion with officers and English Heritage.

3. Pre-application enquiry

The developer submitted plans which have been the subject of pre application discussions and negotiation. The principle of the development on the site has been supported by officers subject to the submission and acceptability of detailed reports, survey information and public consultation.

The scheme has been the subject of a public exhibition and consultation in May 2014 which sought to obtain the views from the wider public and local residents. Officers also suggested to the applicant that the scheme should be subject to design review by the Design Review Panel, but the applicant decided not to pursue this option.

4. Relevant planning history

06/01548 /FUL - Demolition of existing building and erection of building for office use (part six floors, part 7 floors) including basement car parking – GRANTED S106.

06/01303 /FUL - Demolition of existing building and erection of building for office use (part six floors, part 7 floors) including basement car parking. – Withdrawn

05/01224/FUL - Demolition of existing building and erection of building (5 storeys to Notte Street) providing 56 residential apartments – Granted S106

04/00483/FUL – Demolition of existing building and erection of building for Class A3 Food and Drink (Ground Floor) and residential (part 6 floors part 11 floors, providing 77 units) – REFUSED

03/00652/FUL – Change of use of premises from vehicle sales to private members club with extension to front of building to contain new stairwell – REFUSED

5. Consultation responses

Public Protection Service – The proposal has been amended to overcome objections from public protection in respect of air quality, land quality and problems associated with A4 and A5 uses. Their response to these amendments will be reported as an addendum report. In addition conditions have been recommended in respect of code of practice for construction, extraction equipment, management and noise.

English Heritage – The scheme has been amended following a recommendation for refusal from English Heritage. English Heritage still objects to the application, although it does acknowledge that some improvements have been made to the design. Please see the Analysis section for more details on English Heritage's response.

Health and Safety Executive (HSE) – Recommend that the application is deferred until the Hazardous Substance application 14/01347/HAZ has been determined. This is because if this application at the Crescent is approved it may affect the HSE recommendation for the Hazardous Substance application. However see the Analysis section for further consideration of the HSE issues.

Local Highway Authority – No objection to the amended scheme, subject to conditions.

Police Architectural Liaison Officer – No objection to the amended scheme.

Housing - No objection as the general layout and size of the accommodation is acceptable.

South West Water - No objection, but the applicant has been advised to contact SWW regarding the possible requirement to divert the public water main and regarding the dispersal of surface water from the site.

Environment Agency - No objection subject to conditions requiring details of surface water drainage, and appropriate investigation and remediation of contaminated land

6. Representations

There have been 6 letters of objection to date. The objections include the following comments

- The excessive massing would be detrimental and cause a harmful transition from the Conservation Area to the City Centre.
- The modular construction would deliver an extremely poor quality of construction that would quickly deteriorate.
- The architecture and detail of the scheme is of poor quality and should have been considered by the Plymouth Design Panel
- More students in the area would create an imbalance in the area and harm amenity.
- Inaccurate details shown of the massing of the building.
- Development does not respect the Crescent buildings which are listed buildings or the views from the conservation area.
- The cell like layout would prohibit alternative uses.
- The site is on the wrong side of the city to be good for student accommodation.
- The loading bay at the front should be relocated to the rear of the building.
- Parking inadequate to support the proposed uses.
- There is no adequate amenity space for the students.
- The surrounding development would be dwarfed and overshadowed.
- The submission details do not comply with the Tall Building Strategy or the aims of the Hoe Conservation Area Appraisal.
- The development will block important vistas in the area.
- The removal of the steps through the site would restrict permeability
- There is no shortage of student accommodation in Plymouth.
- Neighbouring residential property would suffer loss of amenity and overlooking.
- The land contamination issues have not been dealt with adequately.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The National Planning Policy Framework (the Framework) is a weighty material consideration. It replaces the majority of Planning Policy guidance issued at National Government Level. Paragraph 215 of Annex 1 to the Framework provides that the weight to be afforded to Core Strategy policies will be determined by the degree of consistency of those policies with the Framework.

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- specific policies in the Framework indicate development should be restricted.

In addition to the Framework, the following Adopted Supplementary Planning Documents are also material considerations to the determination of the application:

- The City Centre and University Area Action Plan
- Design Supplementary Planning Document
- Development Guidelines Supplementary Planning Document 1st Review

8. Analysis

1. This application has been considered in the context of the Council's adopted planning policy in the form of the Local Development Framework Core Strategy 2007, City Centre and University Area Action Plan, Design Supplementary Planning Document and is considered to be compliant with National Planning Policy Framework guidance.

2. The relevant policies of the Local Development Framework Core Strategy are:

CS01 (Sustainable Linked Communities); CS02 (Design); CS03 (Historic Environment); CS06 (City Centre); CS15 (Overall Housing Provision); CS18 (Plymouth's Green Space); CS19 (Wildlife); CS20 (Sustainable Resource Use); CS21 (Flood Risk); CS22 (Pollution); CS28 (Local Transport Considerations); CS32 (Designing Out Crime); and CS33 (Community Benefits/Planning Obligations); CS34 (Planning Application Considerations) of the Adopted Core Strategy.

3. The key issues are:
 - The principle of the development on the site
 - The impact of the development on the appearance and character of the area and on the setting of the listed buildings in The Crescent and the Hoe Conservation Area.
 - Amenity issues
 - Highway implications
 - Public protection issues

Principle of development

4. The principle of redevelopment of this site would be in accordance with the NPPF and Core Strategy Policy CS34, both of which encourage the efficient use of previously developed land.
5. The City Centre and University Area Action Plan Policy Proposal CC18, which covers the site, identifies that future development should strengthen the character of the area and could include leisure uses, hotels, bars and restaurants and residential. Mixed use development of this nature, including the various retail uses on the ground floor, is therefore supported in this location.
6. The principle of a tall building on the site is established within the Design Supplementary Planning Document, which includes the site in the Tall Buildings Zone.
7. Officers consider the site is entirely appropriate for student accommodation given its proximity to the University, City Centre, public transport and all amenities. The provision of a significant level of bespoke student accommodation here could help to reduce the pressure on residential areas surrounding the University, including Greenbank and Mutley.
8. Plymouth has a hierarchy of retail centres and as such it is important to protect the retail function of the city centre. The proposed ground floor uses are located on the edge of the defined City Centre Area in the Area Action Plan. The mix of uses proposed are not considered to conflict with the viability or vitality of the City Centre. A condition is however, recommended to prevent the amalgamation of these units to form one larger unit. The creation of active frontage on the ground floor is considered vitally important in terms of urban design and the environment created by the development. The proposal is therefore considered to comply with policy CS06 in terms of city centre uses.
9. This part of the city centre has suffered in recent years from a lack of vibrancy and poor quality of environment due to the demolition of this and adjacent developments. The principle of redevelopment of this site with a mix of residential use and retail uses is welcomed both in policy terms and because it would bring about significant improvement in the area. The site is well connected, accessible and in this respect complies with policy CS01.

Impact on character and appearance of the area.

10. The site falls within the Zone of Opportunity for Tall Buildings as designated within the Design Supplementary Planning Document 2009.

11. In terms of scale and massing the development in block A has been designed to respond to the neighbouring development. The western end aligns with the Zero 4 development and the developments approved on the adjacent Oceanique site. The 14 storey element has been purposely located to align with Atheneum Street and the eastern end reduces in height to 10 and 11 storeys.
12. The Design Supplementary Planning Document identifies the need to protect long range view corridors into the city. The applicant has provided key views from Central Park, North Cross, North Hill, Nott Street, The Hoe, Athenaeum Street, Millbay. From these views it can be seen that the building sits comfortably in the wider cityscape and relates well to the surrounding buildings. It will block some views from the Hoe Conservation Area to the wider countryside to the north, but this is not considered to be so harmful to justify refusal.
13. The design of the building has been subject to discussion at pre application level with officers and English Heritage. It is considered an appropriate response to the local and wider city centre context.
14. The stone effect cladding has been positioned to make reference to the architectural detail of the buildings in The Crescent. The design proposals seek to visually separate the lower storeys of the west wing and be articulated to reflect the scale and rhythm of the façade of the listed buildings. This has been improved by largely removing the horizontal emphasis as shown in the original planning application proposals. The revised proposals are now considered to reasonably complement the development in the area.
15. The façade treatment to both the west and east wings of the building has been simplified so that the central feature tower becomes a little more emphasised giving the overall composition more clarity. The central tower is intentionally located on the vista of Athenaeum Street when viewed from higher up towards the Hoe and to create a landmark feature.
16. The proposed material palette has not been fully agreed. Plymouth limestone has been agreed to the ground floor which is considered positive and locally distinctive. Details of the cladding panels are to be agreed, but as can be seen from the visuals the key element proposed is a reconstituted Portland stone mix, which it will be important to ensure is of the highest quality. As it has not been possible to agree materials at this stage, a pre commencement condition is recommended in this regard to ensure that the quality, and cost, of the materials is established at an early stage.
17. The development proposed is modular. It is therefore particularly important to ensure that the cladding materials is effective. For example window reveals will need to be set back and junction details between materials need agreement, and again these details are recommended to be conditioned.
18. The drawings are considered to give an accurate representation of the proposed building even though an objector has taken a contrary view.

19. At street level the scheme proposes improvements to the public realm and includes repaving using granite. Street furniture including benching, planters, low level lighting and bicycle stands are proposed. Bollards would also be provided to deter on-street parking on The Crescent.
20. The scheme is generally considered to be a positive new development bringing a derelict site of the former Crescent Garage which had been enclosed in hoardings for some following its demolition.
21. Officers also feel that the building would make an important contribution to this part of the city responding with active ground uses and glazing to the principle frontage on Notte Street and returns to both Athenaeum Lane and Place. Officers therefore consider that the proposed buildings would comply with policies CS02, CS34, and the Design Supplementary Guidelines in terms of design and the character of the area.
22. The applicant has throughout the design process been offered the opportunity to have an independent design review through the Design Review Panel. However the applicant has decided not to take up this offer.

Impact on the heritage assets and archaeology

23. The key issue is the effect of the development on the setting of The Hoe Conservation Area, and a number of nearby listed buildings, notably the Grade II* listed number 1 The Crescent and the Grade II listed numbers 2-12 The Crescent.
24. English Heritage raised an objection to the originally submitted scheme. Their main objections were that the scale and detailing of the development would take the focus from number 1 The Crescent and block views of the countryside from Athenaeum Street.
25. Following a meeting with English Heritage the scheme has been amended. A reduction in scale has not been possible, as this would undermine the viability of the scheme, but changes to the frontage have been incorporated to reflect the architecture of The Crescent.
26. Amended comments from English Heritage states that although the design revisions are welcome they do not address the fundamental concern that the scale and massing of the proposed development is overwhelming to the setting of a grade 2* heritage asset, which was specifically designed to be the focus of views. It also states that the current proposal still fails to respond to the character and history of The Crescent and it would cause serious, unjustified harm to one of Plymouth's finest secular buildings.
27. English Heritage confirms that it has no objection to the principle of a building of significant scale and mass, but would prefer to continue working with the applicant towards a more sympathetic scheme.
28. The applicant's Heritage Statement acknowledges the status of the buildings, but considers that the post war planning of Plymouth has resulted in Notte Street removing the front gardens, and thereby reducing the importance of the setting of these buildings. It assesses the harm as less than substantial. The objection from English Heritage uses the terms serious and unjustified harm, but does not claim substantial harm.

29. Officers have considered both documents against the guidance of the NPPF and in particular paragraph 134, which states that when the harm is less than substantial it should be weighed against the public benefits of the proposal.
30. The public benefits of the proposal include the re use of an unsightly area of the City Centre and the introduction of new uses which would increase the vibrancy and vitality of the area. The new student accommodation would also result in the relocation of 348 student bed spaces from the residential areas of the city to the City Centre. The site is well located in terms of access and the redevelopment would contribute towards a sustainable and linked community.
31. On balance therefore officers recommend that the proposal complies with policies CS03 and the NPPF in respect of the impact on heritage assets.
32. The application site, as a result of previous investigations associated with planning application 06/01548/FUL, is known to occupy the site of a burial ground which is believed with a very high degree of confidence to be that of the late 18th to early 19th century Royal Naval Hospital at Plymouth (Stonehouse). The extent of the burial ground is unknown but there is reason to believe that it may extend beyond the area of known burials in all directions. The excavation of all human remains within the site was not completed as the approved development did not proceed.
33. The archaeological assessment makes it clear that there is a strong likelihood of further human burials being found on the site. It is therefore recommended that a condition requiring a programme of archaeological investigation and recording is included in any grant of planning permission.

Impact on amenity

34. A 3D Model to compare existing and proposed overshadowing by the building has been constructed. The assessments were carried out in accordance with Building Research Establishment guidelines. The overall effect of the proposed development on the local environment in terms of overshadowing is considered to be acceptable.
35. The study does show major adverse impact on the Athenaeum Theatre, the flat within the theatre and 23 and 24 Lockyer Street (offices and hotel), however, the resultant shadows fall on existing corridors, a derelict building site or elevations and roofs of commercial buildings with no, or few windows. Moreover, the wide break between the proposed blocks emphasises the nature of transient shadows that fall across the aforementioned areas for small defined periods of the day, leaving them unaffected for the remainder.
36. One of the letters of objection raises concerns about the proposal overlooking property in Alfred Street on the Hoe. However, the distances involved are considered to be sufficient to prevent unacceptable loss of privacy.

37. Concern has also been expressed that the level of student activity resulting from this development would be harmful to residential amenity in terms of noise, disturbance and litter. The developer has confirmed that the property would have an onsite manager and on site security for the evenings, and the students would be given clear guidelines about acceptable behaviour, noise levels etc. Any student not adhering to the rules would first be issued with a warning and if the action is repeated then this would be considered a breach in their contract and they could be asked to leave the premises (depending of the severity of the action). A management plan condition is recommended to ensure compliance with these proposals. In addition opening hours and delivery conditions are recommended to protect residential amenity.
38. The applicants have also confirmed that they will be happy to sign up to a management condition relating to the operation of the building, including site waste management, the storage of which is shown within the building.
39. The amenity of the prospective residents is considered to be acceptable and meets housing standards. The lack of external amenity area is considered to be offset by the provision of internal facilities and the location in the city centre close to the Hoe and city centre amenities. It is recommended that the rooms are built to Good Room criteria and that a condition is imposed to ensure this.
40. The proposal is considered to comply with policies CS15, CS34 and the NPPF in terms of amenity for the reasons given above.

Highways

41. Vehicular access to Block 'A' will be from Athenaeum Place where three disabled parking spaces will be provided on the lower ground floor, along with 88 in number cycle parking spaces to support the student use. No further off-street parking would be provided to support the development, although the application indicates that the lost public car parking spaces associated with the development of Block 'B', would be re-provided within the public street in Athenaeum Place. Following discussion with the Highway Authority , the scheme has been amended and the whole development and all of the uses, would be serviced from Athenaeum Place.
42. The two parts of the Site blocks 'A' & 'B' are bisected by a set of public steps that fall within the application site boundary. The steps are Highway Maintainable at Public Expense (HMPE) and the highway rights would need to be extinguished via Section 247 of the Planning Act 1980 prior to being taken out use, and there is no objection to this in principal, as access around the development is improved. The extinguishment process requires that the public rights would not be interfered with and that the steps would continue to be available for use up until the time that the government office might issue the extinguishment order.
43. As part of the development proposal external works would be necessary and carried out within the public realm around the site, with re-paving of the footways and public areas. The development offers new 'street furniture' including benching, planters with trees, low level lighting, and bicycle stands at the front of Block 'A', to help deter unlawful on-street parking. A condition requiring further details and implementation is recommended.

44. The application site lies immediately adjacent to the Hoe Conservation Area to the south and also quite close to the city centre to the north. There is a desire to improve the quality of the surfacing materials used, by the use of natural materials in accordance with this council's Paving Manual (rather than the concrete paving products). The revised drawing shows some natural paving materials, much of which would also be subject of further detailed approval as part of any associated highway agreement works. Notwithstanding the submitted surfacing details, a planning condition requiring further details and implementation is recommended.
45. Subject to conditions therefore the proposal is considered to comply with the requirements of policy CS28 of the Local Development Core Strategy and the NPPF.

Public protection issues

46. An Air Quality Assessment has been submitted with the application. The Public Protection Service has raised an objection as the assessment does not adequately address the potential canyon effect and the impact of the Combined Heat and Power Plant (CHP) on air quality. Additional information has been requested and following consultation with the Public Protection Service this matter will be reported by addendum report to the Planning Committee.
47. A Pedestrian Level Wind Microclimate Assessment has been submitted with the proposal. This report identifies that the development will result in conditions being potentially windier than desired in the windiest season. Mitigation is suggested to recess main entrances to give people time to acclimatise to windy conditions before stepping out onto the pavement. Other areas requiring mitigation are the south west and northwest corners of Block A, where it is suggested that a canopy is introduced. It is therefore recommended that a condition is included to agree these details.
48. A Surface Water Drainage Strategy has been submitted with the application. The Environment Agency (EA) has requested conditions for further details and South West Water (SWW) have advised that these details will need to be agreed with them prior to implementation. Subject to compliance with these details the proposal complies with CS21 in terms of flood risk.
49. In August, Brittany Ferries submitted a Hazardous Substances application (14/01347/HAZ) for the storage of marine fuel within the ferry terminal depot in Millbay. The marine fuel has been stored at the terminal since 2001, but new legislation now means that the storage needs Hazardous Substance Consent. The HSE has advised that if the Local Planning Authority decides to grant permission for this planning application before they have had the opportunity to assess the hazardous substances consent application, the Council should be aware that HSE would have to take such permissions into account when advising the Council on the application for hazardous substances consent. If the presence of the hazardous substances were considered to be incompatible with any existing or proposed residential or other developments, then HSE would advise against the granting of the hazardous substances consent. Officers consider, however, that without a direct objection from the HSE it is not reasonable to delay development on these grounds.

50. With regard to ventilation and extraction, kitchen extract systems will be taken to roof level. Subject to further details regarding filtration systems and noise attenuation, which can be secured by way of condition, there have been no objections from the Public Protection Service in this respect and there would be no conflict with policies CS22 and CS34 in this respect..
51. A contaminated land assessment has been submitted. The Public Protection Service has objected as it does not adequately cover the probable previous use of the east end of the site, which our records show may be contaminated. A further assessment is awaited at the time of writing this report. This matter will be reported by addendum report to the planning committee.

Sustainability

52. The application is accompanied by an Energy Statement that sets out how the applicant intends to meet policies CS20 and CC05.
53. The site falls within the City Centre and as such would normally be encouraged to provide potential links to district heating and make a contribution towards its provision. In this case, the building is located on the periphery of the area and so an on-site renewable energy solution was proposed. The Energy Statement does not fully meet the 15% reduction for both buildings that is required by policy CS20. At the time of writing this report, negotiations are taking place in respect of an offsite contribution to meet the shortfall in on site provision. This matter will therefore be reported to Planning Committee in the addendum report.
54. In order to comply with policy CS19, the scheme needs to propose a net gain in biodiversity. A condition is proposed to ensure that this net gain can be provided primarily via the landscaping and planting scheme within the public realm.

9. Human Rights

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.

10. Local Finance Considerations

New Homes Bonus

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 £959,333 in New Homes Bonus contributions for the authority. However, 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.

Community Infrastructure Levy

The site is situated in the City Centre Zone which is rated at £0 per square metre for residential/student accommodation. At the current time there is no Community Infrastructure Levy liability (CIL) for this development therefore.

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations have been sought in respect of the following matters:

For the provision and maintenance of the public toilet facilities in Central Park - £85,190.40

For the provision and maintenance of playing pitch facilities in Central park - £154,532.88

An amount is being negotiated for the provision of District Energy solutions within 400m of the development if all of the renewable energy requirements cannot be met on site - At the time of writing this report this matter is still in negotiation. It will be reported to planning committee by addendum report.

12. Equalities and Diversities

The development provides accessible accommodation, access to the building that is Disability Discrimination Act compliant, 3 disabled parking spaces and lift access to all floors of both developments. The development is considered to meet the requirements of policy CS34 in this respect.

13. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that, whilst there are concerns with the proposal in terms of height and design, officers consider that, on balance, the proposal accords with policy and national guidance and specifically

- CS01 (Sustainable Linked Communities); CS02 (Design); CS03 (Historic Environment); CS06 (City Centre); CS15 (Overall Housing Provision); CS18 (Plymouth's Green Space); CS19 (Wildlife); CS20 (Sustainable Resource Use); CS21 (Flood Risk); CS22 (Pollution); CS28 (Local Transport Considerations); CS32 (Designing Out Crime); and CS33 (Community Benefits/Planning Obligations); CS34 (Planning Application Considerations) of the Adopted Core Strategy.

13. Recommendation

In respect of the application dated **18/07/2014** and the submitted drawings :Location Plan, Block Plan, 0560_A_2010 RevB_Block A GA Plan Lower Ground,0560_A_2011 Rev A - Block A GA Ground Floor,0560_A_2012 RevA - Block A_GA First Floor, 0560_A_2019 RevA - Block A - GA 8th Floor,

0560_A_2020 RevB_Block A_GA 9th Floor, 0560_A_2021 RevB - Block A_GA 10th Floor, 0560_A_2022 RevB - Block A_GA 11th Floor, 0560_A_2025 - Block A_GA Roof Plan, 0560_A_2100_D Proposed Site Plan & External Works, 0560_A_2101_E Proposed Site Plan Ground Floor, 0560_A_2102_D Proposed Site Plan Lower Ground Floor, 0560_A_2103_C Proposed Site Plan Typical Floor,

0560_A_2510_A Block B GA Plan_LG Floor, 0560_A_2511_Block B_GA - Ground floor, 0560_A_2512_ Rev A Block B_GA 1st , 0560_A_2523 Block B_GA Roof Plan,

0560_A_3001 RevB_Block A - South & East Elevations, 0560_A_3002 RevB_Block A -North & West Elevations, 0560_A_3003 RevB_Block B - Elevations,

0560_A_4001_A Block A GA Section A-A, 0560_A_4002_A Block A GA Section B-B,

0560_A_4003_A Block A GA Section C-C & D-D, 0560_A_4004 Block A_GA Section EE and FF, 0560_A_4005 Block B_GA Section GG and HH

0560_A_4010_A Site Section 01 & 02, 2014-09-09 Planning 3d Views Rev A,,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 October 2014

14. 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:Location Plan, Block Plan, 0560_A_2010 RevB_Block A GA Plan Lower Ground,0560_A_2011 Rev A - Block A GA Ground Floor,0560_A_2012 RevA - Block A_GA First Floor, 0560_A_2019 RevA - Block A - GA 8th Floor,

0560_A_2020 RevB_Block A_GA 9th Floor, 0560_A_2021 RevB - Block A_GA 10th Floor, 0560_A_2022 RevB - Block A_GA 11th Floor, 0560_A_2025 - Block A_GA Roof Plan, 0560_A_2100_D Proposed Site Plan & External Works, 0560_A_2101_E Proposed Site Plan Ground Floor, 0560_A_2102_D Proposed Site Plan Lower Ground Floor, 0560_A_2103_C Proposed Site Plan Typical Floor,

0560_A_2510_A Block B GA Plan_LG Floor, 0560_A_2511_Block B_GA - Ground floor,
560_A_2512_ Rev A Block B_GA 1st , 0560_A_2523Block B_GA Roof Plan,
0560_A_3001 RevB_ Block A - South & East Elevations, 0560_A_3002 RevB_ Block A -North &
West Elevations, 0560_A_3003 RevB_ Block B - Elevations,
0560_A_4001_A Block A GA Section A-A, 0560_A_4002_A Block A GA Section B-B,
0560_A_4003_A Block A GA Section C-C & D-D, 0560_A_4004 Block A_GA SectionEE and FF,
0560_A_4005 Block B_GA Section GG and HH
0560_A_4010_A Site Section 01 & 02, 2014-09-09 Planning 3d Views Rev A,
and associated supporting documentation.

Reason

To ensure that the development can be subject to a minor amendment in accordance with Section 73 of the Town & Country Planning Act 1990.

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 and the NPPF.

RETAIL UNIT RESTRICTION

(4)The ground floor retail units in Block A shall not be amalgamated so as to exceed 2200 square feet.

Reason:

The development impacts have been assessed on the basis that the units provided are the size shown on the submitted plans. Enlarging the unit sizes would need to be subject to further consideration in the form of a planning application. A further planning application would be required to ensure that the development would have no adverse impact on the viability and vitality of the retail function of the City Centre, or on highway safety, and in order to comply with policies CS06 and CS28 of the Local Development Framework Core Strategy and the NPPF.

REINSTATEMENT OF FOOTWAY

(5) No dwelling shall be occupied and the building shall not be brought into use until the existing footway crossings (to become redundant) has been removed and the footway reinstated.

Reason: 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) and the NPPF.

ARCHAEOLOGICAL INVESTIGATION

(6) No part of the development allowed by this permission shall be commenced until the applicant (or their agent or his successors in title) has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation (WSI) which has been submitted by the applicant and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme and in accordance with other such details as may subsequently be agreed in writing by the Planning Authority.

Reason: To ensure that historic evidence is appropriately recorded, and that the proposed works do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF.

DESIGN DETAILS

(7) Notwithstanding the details submitted, unless otherwise agreed previously with the Local Planning Authority (LPA), no work shall commence until the following details have been submitted to and agreed in writing by the LPA:

- (i) Details of the design, method of construction and finish of the glazing system/curtain walling system and spandrel panel to be used;
- (ii) Details of the depth of reveals to all window openings.
- (iii) Details of the design of any external building lighting proposed;
- (iv) Details of the proposed siting, design and external materials of any roof plant, services or lift rooms and any wall or roof vents, ducts, pipes, extracts, window cleaning apparatus or other accretions to the roof or elevations;
- (vi) Details of the design of the treatment of the junctions between the different cladding systems.

Such agreed details shall be strictly adhered to during the course of development and thereafter so maintained.

Reason:

To enable the LPA to consider the above details in the interests of the appearance and character of the development and locality, in accordance with Policy CS01, CS02, CS03, CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF para 65.

EXTERNAL MATERIALS

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

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF para 65.

SURFACING MATERIALS

(9) No development shall take place past damp proof course level until details and or samples of all surfacing materials to be used have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF para 65.

SURFACE WATER DRAINAGE

(10) Prior to the occupation of the site it shall be demonstrated to the satisfaction of the Local Planning Authority that the scheme for the management of the site's surface water is completed in accordance with the submitted Below Ground Surface Water Drainage Strategy (Ref. 61032681-DR-R002 Rev. A). 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 disposing during and after development, and to ensure that the development complies with the requirements of policy CS21 of the Local Development Framework Core Strategy and the NPPF

STREET DETAILS

(11) Development shall not begin 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. The development shall not 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 and the NPPF para 32.

CYCLE STORAGE

(12) No dwelling shall be occupied until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for 88 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 and the NPPF and para 32.

COMPLETION OF ROADS AND FOOTWAYS

(13) All roads and footways forming part of the development hereby permitted shall be completed in accordance with the details approved under condition 'Street Details' 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 and the NPPF para 32.

PROVISION OF PARKING AREA

(14) 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.

LANDSCAPE DESIGN PROPOSALS

(15) No development shall take place past damp proof course level until full details of both hard and soft landscape works and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include all alterations to the public realm including footway layout and details, street furniture, planting structures, and lighting.

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; the implementation programme.

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

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18, CS19 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF para 65

LANDSCAPE MANAGEMENT PLAN

(16) A landscape management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved 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, CS19 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF

DETAILS OF TREE PLANTING

(17) The plans and particulars of the landscaping works submitted in accordance with condition 15 above shall include details of the size, species and positions or density of all trees to be planted, and the proposed time of planting.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies , CS19 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF

TREE REPLACEMENT

(18) If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

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 are subsequently properly maintained, if necessary by replacement.

OPENING HOURS

(19) Unless otherwise agreed previously in writing with the Local Planning Authority, the ground floor retail uses hereby permitted shall not be open to customers outside the following times: 0700 - 2300 hours on any day of the week. Ground floor A3 (restaurant and café uses) shall not be open to customers outside the following times: 0700 - 2300 Monday to Saturday inclusive, and 1000 - 2200 on Sundays and Bank Holidays.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF.

NOISE

(20) Unless otherwise agreed previously in writing with the Local Planning Authority, the development 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 communal/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).

Prior to any occupation of the buildings, the applicant/developer should submit, for written approval by the Local Planning Authority, a verification report proving that the buildings meet the criteria.

Reason:

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

STUDENT USE RESTRICTION

(21) The units of residential accommodation within the buildings shall only be occupied by students in full-time education, by a warden (who may not be in full-time education), by delegates attending conferences or courses during vacation periods (No such delegate shall occupy the premises for more than four weeks in any calendar year), or any registered student of any college or university within the Plymouth City boundary, provided that the student is studying for a qualification at Higher Education level on a course that satisfies the criteria on eligibility for council tax exemption for student occupation of premises that is in force at the date of this planning permission, or any future such criteria as apply from time to time and for no other purpose.

Reason:

The proposed development has been designed for the specific use as student accommodation. It is not suited to other residential uses without substantial alterations given the limited internal space

per unit, lack of amenity space and lack of on-site car parking to comply with policy CS34 of the Adopted Plymouth Core Strategy Development Plan Document 2007 and the NPPF

MANAGEMENT ARRANGEMENTS

(22) The development shall not be occupied until details of the arrangements by which the approved student accommodation is to be managed, are submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall continue to be managed permanently in accordance with the agreed management arrangements.

Reason:

To protect the residential amenities of the area to comply with policy CS34 of the adopted Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF.

NO HOT FOOD TAKEAWAY

(23) The premises shall not be used for the sale of any hot food for consumption off the premises.

Reason: The use of the premises for such a purpose would be likely to harm local residential amenity due to increased noise and disturbance caused by the frequent arrival and departure of customers, and/or traffic and parking problems outside the premises and in adjacent streets, contrary to Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and the NPPF.

NOISE AND ODOUR FROM MECHANICAL EXTRACTION VENTILATION

(24) Prior to the installation of any mechanical extract ventilation system to any or all of the commercial units the Local Planning Authority (LPA) must be provided with plans and information in respect of the equipment, which must be approved in writing by the LPA, prior to the installation of any such equipment.

The information provided should include details of methods to reduce or eliminate cooking smells and should include confirmation of any odour control methods proposed for use in conjunction with any proposed system, i.e., filtration systems, odour neutralising systems, etc.

The information should also include details of methods to reduce any noise caused by the operation of any proposed ventilation system. The noise emanating from equipment (LAeqT) should not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property.

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

NOISE FROM DELIVERIES AND REFUSE COLLECTION

(25) Unless otherwise agreed previously in writing, deliveries and refuse collections are restricted to the following times:

Monday to Saturday No deliveries or refuse collection between 6pm and 8am

On Sundays and Bank Holidays No refuse collections; no deliveries on Sundays, and on Bank Holidays deliveries only between 10:00am and 4:00pm.

Reason: To protect the residential and general amenity of the area from noise emanating from delivery and waste collection activities and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006 - 2021) 2007 and the NPPF

INFORMATIVE - CODE OF CONSTRUCTION

(1) The management plan required in connection with the "Code of Practice During Construction" Condition should be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web-pages, and shall include sections on the following:

- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information.
- b. Construction traffic routes, timing of lorry movements, weight limitations on routes, initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, wheel wash facilities, access points, hours of deliveries, numbers and types of vehicles, and construction traffic parking.
- c. Hours of site operation, dust suppression measures, and noise limitation measures.
- d. Details of an area to be created within the site for the parking of contractor's equipment and materials.
- e. All sensitive properties surrounding the site boundary should be notified in writing of the nature and duration of works to be undertaken and the name and address of a responsible person, to whom an enquiry/complaint should be directed.

INFORMATIVE - EXCLUSION FROM RESIDENT PERMIT PARKING SCHEME

(2) The application property does not fall within any on-street Permit Parking Zone (although close to one) and would therefore be ineligible for any type of on-street parking permits.

INFORMATIVE: DETAILS OF THE MANAGEMENT ARRANGEMENTS

(3) The applicant is hereby advised that the management details to be submitted and agreed under the above condition should comprise the following elements:-

- 1 - At all times to restrict the occupation of the property to bona-fide students who are currently undertaking full time education, a warden who may not be in full-time education and delegates attending conferences or courses during the vacations, or any registered student of any college or university within the Plymouth City boundary, provided that the student is studying a for a qualification at Higher Education level on a course that satisfies the criteria on eligibility for council tax exemption for student occupation of premises that is in force at the date of this planning permission, or any future such criteria as apply from time to time.
- 2 - To employ a warden who is resident at the property.
- 3 - To include in any tenancy agreement between the owners and student tenant terms which clearly state the expected standard of conduct including the need to have due consideration to the amenities of the nearby properties and that failure to comply with those requirements may result in the termination of the tenancy and the form of such a tenancy agreement shall be supplied to the Council on request. Each tenancy agreement must contain advice that the Berkley Square car park must not be used by tenants or visitors for car parking or dropping off purposes.
- 4 - To circulate to all premises adjoining the property annually with details of the name, address and telephone number of the person responsible for the management of the property.
- 5 - The owners shall impose on the person responsible for the management of the property; a strict timescale to include an investigation of any complaint within twenty four hours and a written response within five working days and shall take such steps as are necessary to ensure that the timescale is adhered to.
- 6 - Details of the proposed arrivals/departures procedures.
- 7 - refuse collection details.

The applicant is encouraged to open and to maintain a dialogue with Berkley Square residents, to ensure that any issues which might arise with day to day running of the building, hereby approved, are adequately addressed in a reasonable time.

INFORMATIVE - SECTION 278 HIGHWAY AGREEMENT

(4) 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 STEPS

(5) No work or enclosure of the public steps that bisected the application site and link Notte Street to Athenaeum Place shall take place prior to the public access rights being extinguished via Section 274 of the Town & Country Planning Act 1990 and the government office have issued the necessary extinguishment order; until such time the steeps shall not be interfered with and remain available for public use.

Reason: To ensure that the public access rights would be properly and lawfully extinguished in accordance with the correct procedure of Section 247 of the Town & Country Planning Act 1990.

INFORMATIVE: (£0 CIL LIABILITY) DEVELOPMENT DOES NOT ATTRACT A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

(6) The Local Planning Authority has assessed that this development, although not exempt from liability under the Community Infrastructure Levy Regulations 2010 (as amended), will not attract a levy payment, due to its size or nature, under our current charging schedule. The Levy is subject to change and you should check the current rates at the time planning permission first permits development (which includes agreement of details for any pre-commencement conditions) see www.plymouth.gov.uk/cil for guidance. Index-linking may also apply.

INFORMATIVE: UNCONDITIONAL APPROVAL (APART FROM TIME LIMIT AND APPROVED PLANS)

(7) 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, including pre-application discussions, and has granted planning permission.

PUBLIC HIGHWAY APPROVAL

(8) This planning permission does not authorize 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.