

PLANNING APPLICATION REPORT



Application Number	15/00095/FUL
Date Valid	28/01/2015

Item	03
Ward	St Peter & The Waterfront

Site Address	PEIRSON HOUSE, MULGRAVE STREET PLYMOUTH		
Proposal	Redevelop site to provide 9 storey building containing 92 apartments, with undercroft parking and associated landscaping (demolition of existing building)		
Applicant	Devcor (Plymouth) Ltd		
Application Type	Full Application		
Target Date	16/06/2015	Committee Date	Planning Committee: 04 June 2015
Decision Category	Major - more than 5 Letters of Representation received		
Case Officer	Simon Osborne		
Recommendation	Refuse		

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1. Description of site

Peirson House is a 3 storey flat roofed building located between Mulgrave Street and Notte Street. The building was previously used as a residential home but has been vacant since 2012. The site contains a rear garden area.

The site is located on the boundary but within the Hoe Conservation Area and lies adjacent to a number of listed buildings including Lockyer Court immediately to the east, the terrace of dwellings on Alfred Street to the south, and the majority of the terrace along Athenaeum Street to the west. The grade II* No 1 the Crescent also lies a short distance further to the west.

2. Proposal description

Redevelop of the site to provide a 9 storey building containing 92 apartments, with undercroft parking and associated landscaping. The existing building would be demolished.

The proposed building would be 9 storeys and would contain 12 one bed and 80 two bed apartments. The original submitted scheme had a recessed, lightweight and heavily glazed top storey which has now been amended to also include the 8th storey

The building would be clad in a light grey rain screen cladding with natural limestone cladding on the ground floor and zinc cladding on the central and corner elements of the proposed building. The proposal includes an extensive use of balconies to the north and south elevations have been proposed to offer amenity space to most apartments.

3. Pre-application enquiry

A pre-app process (14/00825/MAJ) has taken place where officers raised concerns regarding the height of the building. The building was therefore reduced from 10 storeys to 9 storeys. Officers still had concerns regarding the height and impact on the historical assets and neighbouring amenity.

4. Relevant planning history

There is some planning history for the existing building however none is considered relevant to this application.

5. Consultation responses

Historic England– Substantial objection.

Local Highway Authority– No objections subject to conditions

Environment Agency – No objections subject to conditions

Police Architectural Liaison Officer – No objections.

Public Protection – No objections however awaiting further comments on air quality.

Economic Development – No objections but recommend an employment and skills strategy condition relating to local employment during construction.

Devon Design Review Panel – Generally supportive of the scheme

6. Representations

57 letters of objection and 2 letters of observation have been received regarding this application.

The points raised are as follows:

1. The development will be out of place and incongruous.
2. The historical buildings in Athenaeum Street and Alfred Street will be dwarfed.
3. Loss of privacy to gardens
4. Inadequate parking provision
5. Welcome regeneration but the present scheme is unacceptable.
6. The proposal does not respect the Hoe Conservation Area or local distinctiveness.
7. The site is outside of the tall building zone.
8. Development should not exceed the height of the surrounding listed buildings
9. Scale and massing is inappropriate – too big.
10. It is not comparable with other tall buildings such as the Hoe Centre which lies outside the Conservation Area.
11. Facing windows in Mulgrave Street are only 7 metres away.
12. Loss of privacy due to balconies.
13. Loss of light and shadowing.
14. Lack of Affordable Housing.
15. Lack of adequate amenity space.
16. Impact on plants and wildlife.
17. Inappropriate precedent.
18. Impact on education and healthcare provision.
19. The proposal does not conserve or enhance the conservation area.
20. Does not conform with the Hoe Conservation Area Management Plan
21. Small applications in the Conservation Area are often refused while large proposals that have a bigger impact are allowed.
22. The proposal is contrary to the Local Plan and NPPF.
23. Fire Safety
24. A Victorian style terrace would be more appropriate.
25. Additional Traffic affecting existing private accesses off Mulgrave Street.
26. Western Boundary is less than 20 metres from rear of closest houses.
27. Issues with construction – noise, disturbance, traffic, and pollution
28. Monitoring of construction will be required.
29. We need accommodation for the elderly.
30. English Heritage comments are fully supported.
31. Unoriginal and poor design.
32. Submitted image credibility
33. No new building has been built in the Hoe Conservation area higher than its most adjacent building since it was established. The proposal is 150% higher.
34. Noise from balcony use.
35. Lack of traffic and parking study
36. Questions over pre-application process and inclusion of comments in the application documents.
37. Questions over options agreement.
38. No community consultation.
39. Consultation – only site notices.

10 objections have been received in response to the amended plans. The objections reiterated previous concerns covered above and stated:

1. The amendments do not address previous concerns.
2. The proposals are still contrary to the Local Plan
3. The drawings do not show an accurate relationship with neighbouring buildings.

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 development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One: Consultation Draft was approved by Cabinet for consultation purposes on 9 December 2014. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at an early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given). The draft policies of the Plymouth Plan are currently subject to consultation, although the general direction taken by the plan and key issues and options relating to it have been subject to consultation.

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.

Additionally, the following planning documents are also material considerations in the determination of the application:

- Sustainable Design Supplementary Planning Document
- Development Guidelines Supplementary Planning Document (first review)
- Planning Obligations & Affordable Housing 2nd Review Supplementary Planning Document

8. Analysis

1. This application has been considered in the context of the development plan, the emerging Plymouth Plan, the Framework and other material policy documents as set out in Section 7.
2. The application turns upon policies CS02 (Design), CS03 (Historic Environment) CS05, CS15, CS18, CS19, CS20, CS22, CS28, CS33 and CS34. The main considerations are housing provision, Design and Historic environment, Neighbouring Amenity, Living Standards.

Principle of Residential redevelopment

3. The previous use was a residential home which was vacated in 2012 and the building has stood empty since. 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 (as outlined in paragraph 17 of the NPPF).
4. The City Centre and University Area Action Plan Policy Proposal CC18 which the site is not within but is adjacent to, identifies that future development should strengthen the character of the area and could include residential. The Hoe area is largely residential in nature and therefore officers consider that a residential use is appropriate for this site.
5. The building itself has been labelled in the Hoe Conservation Area Appraisal and Management Plan as having a negative impact on the Conservation Area and therefore its replacement with an appropriately designed building would be supported.

Housing Provision

6. When determining applications for residential development it is important to give consideration to housing supply.
7. Paragraph 47 of the NPPF stipulates that “to boost significantly the supply of housing, local planning authorities should...identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”
8. Paragraph 49 of the NPPF states that “housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

9. For the reasons set out in the Authority's Annual Monitoring Report (January 2014) Plymouth cannot demonstrate at present a deliverable 5 year land supply for the period 2015-20 against the housing requirement set out in the Core Strategy which was set prior to the economic downturn. Plymouth can however identify a net supply of some 5,599 dwellings which equates to a supply of 3.1 years when set against the housing requirement as determined by the requirements of the NPPF or 2.5 years supply when a 20% buffer is also applied.

10. The NPPF (footnote 11) also specifies that to be considered deliverable, a site must be:

- Available to develop now
- Suitable for residential development in terms of its location and sustainability; and
- Achievable, with a reasonable prospect that homes will be delivered on the site within five years and in particular that the development of the site is viable.

11. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking..."

12. For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- 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, when assessed against the policies in this framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted"

13. As Plymouth cannot demonstrate a 5 year supply when set against the housing requirement as determined by the requirements of the NPPF, the city's housing supply policy should not be considered up-to-date. Paragraph 14 of the NPPF is therefore engaged and substantial weight must be accorded to the need for housing in the planning balance when determining housing applications

Historic Environment and Design

14. It should be noted that during its development the scheme was presented to an independent 'Devon Design Review Panel (DDRP) prior to submitting the application. Generally the DRP was supportive of the scheme and felt that the height and mass of the proposal as presented to the panel was appropriate for the site in principle however there was some concern regarding the impact on Lockyer Court. In the main it welcomed the design particularly the use of balconies.

15. The site is situated within and on the southern boundary of the Hoe Conservation Area, and is immediately adjacent to the Grade II listed buildings on the corner of Lockyer Street (No 14 and No 15 Lockyer Court), which was previously an orphanage and later a hospital. A short distance along the road on the same side is The Crescent, an elegant terrace of Grade II* and Grade II listed buildings. The site is therefore very prominent and visible, and in close proximity to important listed buildings.

16. Most of the buildings in the immediate area and throughout the Hoe Conservation Area are of a relatively uniform scale and mass, and this extends to the building currently on the site, despite it being a much later addition on the site of a terrace of houses that were bombed. Lockyer Court is three-storeys plus an attic and a basement, and this scale continues down the road and is retained throughout the surrounding area until it is terminated by the elegant terrace of The Crescent. Although other taller buildings have recently gained approval in the local area, these do not fall within the boundary of the Conservation Area.
17. Notte Street forms the boundary of both the Conservation Area and the area zoned as appropriate for tall buildings in Plymouth City Council's Sustainable Design SPD. It effectively and purposely separates the more modern mixed used city centre where taller buildings may be acceptable from the more historic residential character of the Hoe.
18. The site lies to the south of Notte Street and therefore within the Conservation Area and outside of the tall building zone. Following Historic England's objections to the scheme as originally submitted which was fundamentally due to the large scale and massing of the proposed building, the proposal has been amended in an attempt to address their concerns which were shared by your officers. In addition to stepping the corner elements down by an additional storey (approximately in line with the ridge level of the adjacent Lockyer Court listed building), the building line has been stepped in by 1.25m on both the north and south elevations, which reduces the massing of the proposals. The amended proposals also include lightweight structure for the 2 uppermost storeys, as oppose to the single lightweight storey at 9th floor level in the submitted scheme. As a consequence of these design changes, the overall floor area of the proposed development has been reduced by 15%, although the 9 storeys have been retained.
19. Historic England has been re-consulted and has stated that the amendments do not alter their previously-stated position that the proposal would in the main due to the scale and massing of the building cause substantial harm to the Conservation Area and harm to the listed buildings, a view shared by officers.
20. Historic England recognise that the existing building on the site is not of any merit, but consider it does at least respect the uniformity of building heights in the conservation area (generally 3-4 storeys plus basement and roof accommodation) and consideration of scale and massing should be the starting point for any proposed redevelopment. Given that this site faces Notte Street, a principal public thoroughfare, it is recognised that a slightly larger building than the norm might be achievable without damaging the character and appearance of the Conservation Area, however it is considered that the proposal would reduce the visual primacy and importance in the streetscape of the heritage assets, harming their setting and thus their significance
21. The proposed building would rise above the important Conservation Area buildings adjacent, including the fine return elevation of Lockyer Court referred to above, and the end elevation of Number 1 The Crescent, a Grade II* listed building. Lockyer Court (and Lockyer Street) was designed by John Foulston, Plymouth's most renowned architect. Lockyer Street is described by the architectural historian Oliver Bradbury as "one of Foulston's best set-pieces"

22. Officers and Historic England do not agree with the supporting information that the height of the proposed building is acceptable because it relates to the height of other taller buildings in the area is disingenuous, as with the exceptions of the Holiday Inn and Opal villas buildings (neither of which could be held up as fine examples of contextual development) none of the other tall buildings are within the Hoe Conservation Area. Whilst it is accepted that they form part of the streetscene, the taller existing buildings or those with planning permission on the north side of Notte Street form the boundary of the tall building zone and being outside of the Conservation Area were considered acceptable.
23. CS03 of the Core Strategy requires the council to safeguard and where possible enhance historic environment interests and the character and setting of areas of acknowledged importance including listed buildings and conservation areas. . CS02 requires development to respect the character, identity, context of Plymouths historic townscape and contribute positively to an area's identity and heritage in terms of scale, density, layout and access. CS34 requires development to be compatible with its surroundings in terms of style, siting, layout, orientation, visual impact, local context and views, scale, massing, height, density and materials. Officers consider that due to its height and scale the proposal does not accord with these policies
24. Paragraph 58 of the NPPF notes that planning decisions should ensure that developments respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 60 goes on to note how it is proper to reinforce local distinctiveness and Paragraph 137 is also of relevance to this scheme, stating "local planning authorities should look for opportunities for new development within conservation areas....to enhance or better reveal their significance. Paragraph 129 states that a local planning authority should take into account the particular significance of a heritage asset when considering the impact of a proposal on it. In the case of this development, it is the effect upon the setting of the listed buildings around the subject site and the character and appearance of the Hoe Conservation Area. Paragraph 131 of the NPPF sets out the basic framework for determining applications that affect the historic environment, requiring local planning authorities to have regards to the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities, and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 133 of the NPPF states that where a proposal will lead to substantial harm to or total loss of significance of a designated heritage asset local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Due to its height and scale officers consider the proposal is contrary to paragraphs 58, 60 129,131, 133 and 137 of the NPPF.
25. Section 66 and Section 72 of the of the Town Planning (Listed Buildings and Conservation Areas) Act 1990 require that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. These are not a policies but a requirement of the act itself meaning that when considering these proposals, great weight must be given to the impact of the proposals on the character and appearance of the Hoe Conservation Area.

26. While the comments of the design review panel are noted and it is recognised that the amended plans by reducing the height of the corner elements and the incorporation of lightweight structure to the 8th floor have reduced some of the impact particularly when viewed from street level officers consider that the proposal by virtue of its height, scale, and massing, this proposal is likely to have a serious adverse effect on the conservation area and the surrounding heritage asset

Landscaping

27. The landscaping proposal has been formulated on the principles of opening up the space in front of the building (towards Notte Street) and allowing a series of spaces to be used by pedestrians as a resting place, and also a private area for residents of Peirson House to use. Using a series of stone faced retaining walls, the stepped gardens will also perform the visual function of reducing the impact of the natural limestone clad ground floor plinth level. The planting would include trees which are welcomed in this area. The details and management of the landscaping would need to be controlled by condition should the application be approved.

Neighbouring Amenity

Properties located on Alfred Street

28. The building (not including the outdoor terrace) would be located approximately 7.5 metres (5.3 metres when measured from the projections) from the rear boundary of the site and would be a further 7 metres away from the rear boundaries of the dwellings located on Alfred Street. All dwellings except the end dwelling on the Alfred Street terrace have garages or hard standings ensuring that the garden area of the dwellings is some way away from the rear boundary. The building itself would be between 26 and 28 metres away from the closest rear tenement found on the Alfred Street Terrace. The development guidelines SPD advises that facing windows should be 28 metres apart however the guidance also recognises that in more historical dense built up areas it is not unreasonable to assume that privacy might be less than in lower density neighbourhoods. The building and associated balconies are considered to be an adequate distance away from the properties in Alfred Street to ensure that privacy will not be unreasonably affected by the proposal.
29. The garden terrace would stretch to the boundary of the site and would be slightly above ground level, however appropriate screening could be provided by ensuring the details of the boundary treatment are controlled by condition.
30. The submitted Design and Access Statement includes shadow analysis. This shows that due to the building being located almost due north of the dwellings on Alfred Street that shadowing is unlikely to be significant.

The properties on Athenaeum Street

31. The building would be approximately 21 metres away from the main 3 storey tenements, it is recognised that there are some lower extensions closer than this but in the main these do not contain windows in the end elevations. A large number of the closest gardens are again used for parking or garages. Although less than the 28 metre guidance it is considered that given its location the degree of privacy maintained will be acceptable.

32. The shadowing diagram shows that the building would cause additional shadow to the northern end of the terrace in the morning during summer. For the majority of the day and the evening the proposal would cause little if any additional shadowing. Although it is recognised there will be some impact this is not considered significant enough to warrant refusal of the application.

Properties along Lockyer Street and the Eastern part of Mulgrave Street

33. The proposed building would be approximately 7 metres away from the western elevation of Lockyer Court and the adjacent buildings. It should be noted that the current building is also located on the boundary albeit at a much lower level. In order to avoid loss of privacy the applicant has proposed obscure glazing in the lower part of the windows on the 1st 2nd and 3rd floors. It is therefore considered that there would be little impact in terms of loss of privacy.
34. The guidance suggests that in order to protect outlook and for a building not to appear unreasonably overbearing the minimum distance between a main habitable window and a blank elevation for buildings over 3 storeys should be at least 15 metres. The distance between habitable windows in properties to the east and the proposal would be seven metres. While it is noted that this 7 metre relationship already exists between these properties and the existing 3 storey building to be demolished the present situation allows outlook of the surrounding sky. It is accepted that some increase in height might be acceptable however officers consider that the proposed height of 9 storeys, at least 6 storeys above the adjacent buildings would result in an unreasonable loss of outlook and appear unreasonably overbearing when viewed from these properties contrary to CS34.
35. With regard to shadowing, the shadow exercise shows that the building would cause additional shadowing in the summer particularly in the evening however this is not considered so significant to warrant refusal of the application.

Standard of Accommodation

36. The accommodation would comprise of 12 one bed and 80 two bed apartments. All apartments would meet the size standards found in the Development Guidelines SPD. Outdoor amenity space would be provided in the form of balconies for the majority of units with a communal terrace to the rear. Although the balconies on the north side of the building would mostly be in shadow it is considered that due to the sites proximity to the Hoe, the provision of outdoor amenity space is acceptable.
37. The majority of apartments would have adequate light and outlook however it is considered that due to the obscure glazing proposed to the first, second and 3rd floors of the east elevation (affecting 6 units) the bedrooms which they serve would have limited outlook contrary to policy C34.

Highways

38. The Local Highway Authority has not raised any objections in principal to the proposal.

39. The application site is situated on the edge of the City Centre itself in a highly sustainable location, on the south side of Notte Street where the main entrance and pedestrian access would be located. Vehicle access and egress to the undercroft parking area is shown on the west side of the building in Mulgrave Street. Mulgrave Street runs around the perimeter of the building along its east, north, and west side, and forms an east/west link between Lockyer Street and Athenaeum Street, and there are also two service lane spurs that link Mulgrave Street with Alfred Street to the south. The development would provide two stepped pedestrian links, one each side of the building (east and west) between the fronting Notte Street, and Mulgrave Street.
40. Cycle storage would be provided for 63 cycles in the undercroft parking area, which is more than the minimum 50% requirement of 46. Appropriate cycle storage is required to encourage cycling as a sustainable means of travel, and should be secured by a planning condition.
41. There are 42 parking spaces (23 of which are fairly constrained) proposed to serve the 92 flats, a parking level of approximately 45% provision. Due to the application site being located within the City Centre area, where there are convenient sustainable travel options available, off-street car parking is not necessarily a requirement to support the proposed new flats at what is considered to be a highly sustainable location. There are a number of public car parks close by, including the 612 space Theatre Royal car park situated approximately 70 metres away, and there is on-street Pay & Display car parking also available in some of the surrounding local streets, including the nearby Lockyer Street.
42. The local streets are all subject to some form of parking restrictions, including a Permit Parking Zone 'H', which the proposal has apparently taken into account to ensure the proposed development would not interfere with the existing availability of on-street permit parking spaces in Mulgrave Street, which is restricted at all times to permit holders only. The proposed new development of 92 flats would significantly change and intensify the use of the application site giving rise to a demand for car parking, and as such would be altogether ineligible for all types of on-street parking permits and tickets. This exclusion would help safeguard the on-street car parking availability for existing parking permit holders.
43. The proposed car parking area is accessed via a ramped entrance leading down into the undercroft on the west side of the building off Mulgrave Street, but would not interfere with the existing on-street permit parking bays. The width of the undercroft access ramp is quite constrained at approximately 4 metres wide, which would facilitate only give-and-take vehicle access and egress. From the details provided the ramp is estimated to be approximately five metres in length with a gradient of approximately 1:10 although (with a lack of given levels) could be steeper. Particular attention would need to be given to the transition points at either end to ensure that vehicles would not ground. It should be noted that notwithstanding the application details a footway crossing and kerb-line would need to be maintained across the ramped vehicle entrance/exit to the undercroft parking area, to ensure surface water would not issue from the public highway into the private development. The existing ground level along the back of the footway and the footway cross-fall of 1:40 toward the carriageway must be maintained at all costs, and the new vehicle entrance and footway crossing would need to be designed and built to accommodate the existing ground levels of the fronting public street that it would tie into. If Planning Committee were minded to approve the application these details could be secured by condition. The Highway Authority would also conditionally seek inter-visibility splays to be provided either side of the vehicle entrance of a minimum size of 2 x 2 metres, with the further details to be provided.

44. The proposal is considered to comply with policy CS28 of the Core Strategy subject to conditions.

Affordable Housing and Lifetime Homes

45. The application does not propose any onsite affordable housing. Policy CS15 states that at least 30% of the total number of dwellings should be affordable homes, to be provided onsite (subject to viability assessment). Offsite provision or commuted sum payments for affordable housing will be acceptable provided it is justified and contributes to the creation of balanced, mixed and sustainable communities.
46. While the applicant has suggested a commuted sum, and current viability assessment (which is ongoing) suggests this might be an acceptable approach the amount currently offered would not in any way offset the requirement of 30% and would therefore, in officers opinion not contribute to a balanced community contrary to policy CS15.
47. With regard to Lifetime homes, policy CS15 requires 20% of new homes to be built to lifetime homes standards. The application proposes 30% (26 units) lifetime homes which exceeds the policy requirement.

Public Protection Issues

Noise

48. The findings of the Noise Impact Assessment conducted by REC Ltd show that the noise from the adjacent Notte Street are the most significant noise source. There is still a requirement for protection of future residents and as such the noise levels internally should be conditioned. The report argues that the external amenity areas should be allowed to exceed the recommend level according to the relevant standard. Whilst Public Protection do not necessarily agree with this viewpoint they do accept that altering the design to improve the mitigation is not straightforward – also it is pointed out that some parts of the areas are acceptable. As such they do not wish to object to this approach subject to noise conditions including verification.

Contaminated Land

49. A preliminary risk assessment report been submitted in support of the application. The report has not picked up presence of historic underground fuel storage 90m East of site and also has not taken account of long term hospital land use from 1914 - 1974 adjacent to the site. The report is accepted, but will require updating to take full account of the above prior to the intrusive ground investigation that is recommended to ensure that the scope of this investigation is adequate. Should the application be approved conditions would be required to support the necessary further site characterisation work, plus any other remediation and verification work that may subsequently be required.

Biodiversity

50. The applicant has submitted a Preliminary Ecological and an Ecological Mitigation and Enhancement Strategy. The ecological enhancements proposed including landscaping , bird boxes and bat boxes are considered acceptable and comply with policy CS18.

Drainage

51. The applicant has submitted a drainage plan to demonstrate drainage of the site. The Environment Agency is satisfied that this is acceptable subject to a further details condition.

Energy savings

52. The application proposes to find 15% carbon savings through the use of photovoltaic cells. This is considered acceptable and complies with CS20 requirements.

Other Issues

53. The letters of representation have raised issues regarding the consultation of the application. The application has been advertised in accordance with the Council's consultation protocol including site notices and newspaper. The amended scheme was also re-advertised. Whilst community consultation by the applicant is encouraged it is not a requirement.
54. Questions have also been raised regarding the pre-application process and also the option agreement related to the sale of the land. The pre-application was a formal Development Enquiry Service which has been briefly discussed in section 3 of this report.
55. The sale of the land and the options agreement is a separate process from planning and it has not formed part of the consideration of the application.

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

The provisional Community Infrastructure Levy liability (CIL) for this development £217 205.36 (index-linking applied, but subject to change before final liability confirmed)

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:

Planning Obligation Theme	Service Area	Project or Programme	Amount (£)
Local Greenspace:	Natural Infrastructure	“for the provision and maintenance of Greenspace facilities at the Hoe”	£40,333.36
Children’s Play Space:	Natural Infrastructure	“for the provision and maintenance of Children’s Play facilities at Central Park”	£ 26,072.00
Playing Pitches:	Natural Infrastructure	“for the provision and maintenance of changing room facilities at Central Park”	£ 73,163.20
Strategic Greenspace:	Natural Infrastructure	“for the provision and maintenance of new footpaths at Central Park”	£ 89,960.68
Health	NHS	For the provision of new or enhanced GP facilities in West Hoe	£27,200
Education	Education	For 16 primary places for {name School/facility/Project}	£190,994

Transport	Highways	towards Cattedown Roundabout improvements	£314,428
S106 Management Fee			£17,108

Viability

The National Planning Policy Framework sets out a core planning principle that in decision-taking local planning authorities should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.

To incentivise the bringing back into use of brownfield sites, local planning authorities should take a flexible approach in seeking levels of planning obligations and other contributions to ensure that the combined total impact does not make a site unviable. Assessing viability should lead to an understanding of the scale of planning obligations which are appropriate. However, the National Planning Policy Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.

Central to the consideration of viability is the assessment of land or site value. Land or site value will be an important input into the assessment. The most appropriate way to assess land or site value will vary from case to case but there are common principles which should be reflected.

In all cases, land or site value should:

- reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;
- provide a competitive return to willing developers and land owners (including equity resulting from those wanting to build their own homes); and
- be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.

Officers currently do not agree with the land value disclosed within the submitted viability report and therefore do not agree with its conclusions regarding the contributions that can be offered to keep the scheme viable. The amount available suggested in the viability report does not mitigate, or come close to mitigating the impacts of the proposal on local and strategic infrastructure contrary to policy CS33. However it should be noted that negotiations are ongoing and it is possible an agreement could be reached had officers been minded to recommend approval.

12. Equalities and Diversities

Lifetime homes has been addressed above and there are no further issues.

13. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal does not accord with policy and national guidance.

In accordance with the NPPF, it is accepted that paragraph 14 is engaged and the policies relating to housing provision namely parts of policies CS15 and CS16 are therefore out of date. The impacts of the proposal must therefore significantly and demonstrably outweigh the benefits to justify refusal of planning permission.

It is acknowledged that, in the context of a shortfall in the deliverable supply of housing land the proposal would give rise to important economic benefits that weigh strongly in favour of planning permission being granted. However in this instance for the reasons given in this report the adverse impacts of the proposals in terms of the substantial harm to the conservation area and listed buildings, impact on neighboring amenity, the poor standard of accommodation, the lack of affordable housing provision, and the lack of adequate contributions to mitigate the impacts of the development on infrastructure are considered to outweigh the benefits. The application is therefore recommended for refusal.

13. Recommendation

In respect of the application dated **28/01/2015** and the submitted drawings 2147/100, 2147/101, 2147/105/A, 2147/106, 2147/107, 2147/110/B, 2147/111A, 2147/112/A, 2147/113/A, 2147/114/A, 2147/115/A, 2147/116, 2147/120, 2147/121, 2147/125/B, 2147/126/B, 2147/160 - Heritage Statement, 2147/170 - Landscaping Management Plan, 2147/190/A to 192/A, Air Quality Assessment dated 08/12/14, Ecological Mitigation and Enhancement Strategy dated Dec 14, Energy Statement dated 22/11/14, Contamination Report dated 06/11/14, Prelim Ecological Appraisal Nov 2014, Noise Impact Assessment dated 10/12/14, and accompanying Design and Access Statement., it is recommended to:
Refuse

14. Reasons

IMPACT ON THE HOE CONSERVATION AREA AND SETTING OF LISTED BUILDINGS

(1)The Local Planning Authority considers that due to its height, scale and massing the proposal would have a substantial adverse impact on the Hoe Conservation Area and nearby listed buildings particularly the adjacent Lockyer Court. The proposal is therefore contrary to policies CS02, CS03, and CS34 of the Plymouth Local Development Framework Core-Strategy 2007, policies 31 and 32 of the the emerging Plymouth Plan, and paragraphs 58, 60 129,131, 133 and 137 of the NPPF.

IMPACT ON NEIGHBOURING PROPERTIES (TO THE EAST)

(2) The Local Planning Authority considers that the proposed height of 9 storeys, which would be at least 6 storeys above the adjacent buildings to the east would result in an unreasonable loss of outlook and appear unreasonably overbearing when viewed from these properties contrary to policy CS34 of the Plymouth Local Development Framework 2007, policy 33 of the emerging Plymouth Plan and the NPPF.

STANDARD OF ACCOMODATION

(3) The Local Planning Authority considers that due to the obscure glazing proposed to the first, second and 3rd floors of the east elevation (affecting 6 units) the bedrooms which they serve would have limited and unacceptable outlook contrary to policy CS34 of the Plymouth Local Development Framework, policy 32 of the emerging Plymouth Plan and the NPPF

IMPACT ON INFRASTRUCTURE AND LACK OF AFFORDABLE HOUSING

(4) The Local Planning Authority do not agree with the viability conclusions of the submitted viability appraisal and do not consider that the contributions suggested in the submitted appraisal are acceptable to adequately mitigate, or help to mitigate, the impacts of the proposal on local and strategic infrastructure. The Local Planning Authority also considers that the limited committed sum available to offset the lack of onsite affordable housing provision is not adequate to offset the requirement for affordable housing and therefore is contrary to policies CS15 and CS33 of the Local Development Framework 2007, policy 50 of the emerging Plymouth Plan and paragraphs 50 and 203 of the NPPF

Informative

REFUSAL (WITH ATTEMPTED NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant [including pre-application discussions] and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

Relevant Policies

The following (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and (b) relevant Government Policy Statements and Government Circulars, were taken into account in determining this application:

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration

CS18 - Plymouth's Green Space

CS19 - Wildlife

CS20 - Resource Use
CS21 - Flood Risk
CS22 - Pollution
CS05 - Development of Existing Sites
CS03 - Historic Environment
CS02 - Design
CS15 - Housing Provision
SPD2 - Planning Obligations and Affordable Housing
SPD1 - Development Guidelines First Review
SPD3 - Design Supplementary Planning Document
NPPF - National Planning Policy Framework March 2012
CCS03 - City Centre and University Area Action Plan