

PLANNING APPLICATION REPORT



Application Number	16/00007/FUL	Item	03
Date Valid	09/05/2016	Ward	St Peter & The Waterfront

Site Address	134 VAUXHALL STREET, PLYMOUTH		
Proposal	Demolish existing building and erection of 4-6 storey building with commercial on ground floor and student flats above (56 bed spaces).		
Applicant	Mr Manoch Bahmanzadeh		
Application Type	Full Application		
Target Date	03/10/2016	Committee Date	Planning Committee: 29 September 2016
Decision Category	Major - more than 5 Letters of Representation received		
Case Officer	Katherine Graham		
Recommendation	Refuse		

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1. Description of site

The application site consists of a part 3 storey and part 2 storey building, located fronting onto both Vauxhall Street to the west (3 storeys) and Sutton Wharf/North Quay to the east (2 storeys).

A narrow vehicular lane runs along the north boundary of the site called Tin Lane. This lane also provides access to a small car park which serves the rear of Grade II Listed 140 Vauxhall Street (currently a retail unit). A restaurant/takeaway is located to the north on Tin Lane.

The building is adjacent to Century Quay to the south. Discovery Wharf is located to the north east of the application site. The application site fronts onto Vauxhall Street to the west, and is located opposite How Street.

The building is located within the Barbican Conservation Area.

2. Proposal description

The application is for the demolition of the existing building and the erection of a new building, 4-6 storeys in height, with commercial on ground floor and student flats above (56 bed spaces). The building includes a retail unit on the ground floor, fronting onto both Vauxhall Street and Sutton Harbour. The ground floor also includes the entrance to the student accommodation above and a bin and bike store. Floors 1 – 3 above propose 2 student cluster flats per floor, Floors 4 – 5 propose 1 cluster flat on each floor, all cluster flats containing 7/8 units. There is a roof terrace proposed on the 4th floor on the West /Vauxhall Street elevation and 6th floor on the East/ Sutton Harbour elevation.

3. Pre-application enquiry

13/00988/MAJ LPA raised concerns regarding the loss of the building and development in Conservation Area, comments on design, need for flood considerations, consideration of student accommodation, parking and transport, public protection comments, and S106 requirements.

4. Relevant planning history

97/00569/FUL Retention of alterations including provision of enclosed staircase Refused 20/08/1997
97/00572/CAC Retention of alterations including provision of enclosed staircase Refused 19/08/1997
96/00812/FUL Installation of external staircase Granted 24/07/1996
96/00156/FUL Alterations in connection with forming separate restaurant including external flue Granted 22/03/96
86/01896/EXE Use as premises as restaurant and residential club Withdrawn 03/11/1986
82/02470/ FUL Use of restaurant for the additional sales of hot food takeaway Withdrawn 25/12/1982
82/03521/FUL Change of use of second floor from kitchen/store to design studio Granted 07/12/1982
82/00706/FUL Use of part of first floor and second floor as angling club headquarters Granted 22/04/1982
80/02870/FUL Change of use from restaurant and bar/gaming to card rooms with restaurant and bar Refused 13/01/1981

5. Consultation responses

Transport

No objection subject to conditions

Natural Infrastructure Team

Original Comments: Further Information Required

Updated comments: Request information on landscaping.

Recommend conditions (Biodiversity and Construction Environment Management Plan) and confirm S106 request (Local Green space, Strategic Greenspace and Playing Pitches).

Plymouth University

My concern is that this site is not in a location where I would house first year students – the group who typically live in halls. This means that their market would be returners, internationals or postgraduates. All of these groups except for international students usually prefer to live in private housing. International students may be interested in any development at this site, but the number of international students is low their needs are already catered for by other developments. My concern would then be that this development will not fill with students. The developers may look to form an agreement with the university to take on this site, but I would be reluctant to do so and existing commercial interests make this very difficult. The end result may be a development in a prime site in a public interest building that is not filled.

Concern over the building of important historical significance for the city and any development must be treated with care to protect its heritage.

Police Architectural Liaison Officer

The proposed entrance to this development is shown as being off Tin Lane. This is a narrow road which, if not lit sufficiently, will add to the fear of crime for persons using this lane. Therefore, I would request that a lighting plan is submitted for this lane, which complies with BS 5489-1:2013.

Public Protection

Conditions are recommended relating to land quality and sound insulation. There are also some concerns regarding noise from the use of the roof terrace affecting nearby residents and as such would also recommend a condition to restrict hours of use.

Historic England

The former Cooperage, 134 Vauxhall Road, is a key building within the northern section of the Barbican Conservation Area. Retaining much of its warehouse quality, it has two key roles; firstly as the last prominent historic building within the north section of Sutton Harbour quay demonstrating the former functional warehouse character of the area. Secondly as part of a key group of buildings marking the entrance to the Barbican Conservation Area and highlighting its historic character.

The complete demolition of the building will result in substantial harm to the character and appearance of this section of the conservation area. The current application has failed to satisfy the requirements of the NPPF or national legislation to justify this level of harm. Consequently, Historic

England strongly objects to the proposal due to the significant adverse impact on the conservation area and we would recommend that the application is refused on heritage grounds.

Victorian Society

Strong Objection to the loss of the important building, which has not been justified and would give rise to substantial harm to the Conservation Area. Recommend refusal.

Twentieth Century Society

Object to the loss of the building, which has not been justified, and the building should be retained and re-used. Recommend refusal.

Environment Agency

We consider that the proposed development will only be acceptable if:

- a financial contribution towards flood management around Sutton Harbour is agreed and secured through a planning obligation; and
- permission includes conditions requiring the:
 - o implementation of flood resilient construction methods
 - o implementation of a flood warning and evacuation plan
 - o appropriate investigation and remediation of contaminated land
 - o appropriate management of any unexpected contamination which might be encountered during construction.

It is also necessary to demonstrate that the sequential and exception tests can be satisfied.

Lead Local Flood Authority

Highlight the tidal flood risk at this site and need for finished floor levels to mitigate this risk. It is recommended that the principal of separating surface water and discharging it to Sutton Harbour would be acceptable with suitable measures to protect water quality, but the detailed proposals as to how this would be achieved needs to be confirmed.

South West Water

I refer to the above application and would advise that South West Water has no objection subject to foul flows only being connected to the public combined sewer.

Surface water should as suggested by the Environment Agency be discharged directly to Sutton Harbour as any connection of such to the public surface water sewer would require attenuation for which there would appear to be insufficient space on site to provide.

Plymouth Barbican Trust

Object to loss of quirky vernacular building. Its unique appearance contributes to diversity of conservation area but also reflects areas social history and adds to sense of place. It has a strong positive contribution to the conservation area and should be retained. There has not been any strong justification for its loss or that the loss will be outweighed by substantial public benefit. Little

evidence that the neglected building has been marketed that could bring forward a viable alternative use. Object to lack of character of the proposed replacement building.

6. Representations

136 Letters of objection received on the following grounds:

- Request for Committee process

Students

- Rowdy noisy behaviour in anti-social hours
- Route back from nightclub – if student building is built here then behaviour will continue along waterfront
- Expect to be a peaceful environment
- Why do we need more student flats?
- While there may be a need for student flats there must be a better option for this site
- Significant negative impact
- Excessive noise
- Excessive waste
- Other sites/buildings more suitable for students
- City Centre preferable location
- At saturation point for student housing
- Licence for bar/nightclub rejected but now considering over 50 students?
- Even mature students will give rise to noise impact
- Where will students smoke – gives rise to amenity impacts and also noise impacts
- Noise impact from late night taxis and doors slamming
- No information on measures to mitigate against noise
- Question long term sustainable use of building as student flats
- Is it possible to restrict to graduate students? No guarantee
- High value site but not for student with no Council Tax requirements

Heritage

- One of few remaining heritage buildings along Sutton Harbour
- Contributes towards area's history, beautiful, iconic, unusual, quirky
- Sited on the way/entrance to Barbican so a landmark building in a historically significant location
- Demolition would be a great loss to character and history of area and destroy aesthetics
- Too many historic buildings are being demolished and heritage should be respected, preserved and celebrated
- This would be ideal for renovation
- The building has been left to deteriorate making it more difficult to renovate but it could still be achieved
- PCC should CPO building or enforce owner to bring building to appropriate standard
- Facade should be retained at the least/ amazing facade

- Holds many memories
- Should be listed
- The building has survived the Blitz and post war regeneration – should not be lost now
- Significant historical, cultural and aesthetic
- The fact alterations were made 70 years ago still are historic and not a reason to demolish
- Contravenes Barbican Conservation Area, adds to existing inappropriate development
- Building makes a positive contribution to Conservation Area
- Density too great
- Conflicts with Core Strategy Policies CS02, CS03, CS13 and Sutton Harbour Vision
- Heritage Trail runs in front of this building
- If building was put on market with a price reflecting the current condition, then the building would surely be sold and converted

Design

- Object to replacement of historic building of character with new build design
- “dull identikit, generic, modern carbuncle, characterless, soulless, over development”
- New building out of keeping with area, does not have the warehouse character
- Question whether this is the right location for the unconventional proposed cladding

Transport

- Impact from traffic congestion which will disrupt local trade in the Barbican
- Parking is challenging within the area
- Drop off and pick up will cause issues for Century Quay and Discovery Wharf, potential gridlock
- No parking facility which will give rise to increase in illegal parking
- Students whilst lower car ownership do have cars
- If Tin Lane pedestrianised then this will push all traffic via Hawkers Avenue
- If Tin Lane not pedestrianised then this will conflict with access for students
- Conflict with pedestrians and vehicle dangerous
- Visitor, delivery vehicles and taxis will increase impact
- Use of Tin Lane for loading and unloading will seriously exacerbate safety and parking issues within the area
- Could turn Tin Lane into a one way street?
- Ground floor better served by parking
- Refuse collection an issue, as unlikely to collect along Tin Lane
- Narrow cobbled roads provide insufficient access

Amenity

- Unsightly, noisy, messy
- Negative impact on tourist area and impact on businesses
- It would be less impact to restore the building
- Height of eastern block (Vauxhall Quay) will be within close proximity to the balconies of the apartments at the west of Discovery Wharf which will impact upon privacy
- Proposed roof terrace would give rise to noise impacts
- How will roof terrace be managed?
- Roof terrace used as smoking area and smoke pollution
- Roof terrace lead to safety issues, possible impact on adjacent balconies

- Noise transfer through party wall to Century Quay
- Century Quay communal garden overlooked and impact upon privacy
- Discovery Wharf overlooked
- Impact on flat 41 Century Quay
- Appears to be a low ceiling height of property
- Building abuts party wall of Century Quay which has several ventilation units serving bathrooms
- Unclear how proposed courtyard and garden wall will impact upon Century Quay
- Loss of light to Century Quay

Uses

- Building can be retained and used as a commercial property, offices, visitor centre, community use, pharmacy, shop, cafe
- Loss of a music venue, should be retained as a music venue, and the licence should have been granted back in 2013
- Music venue was thriving previously, City in need of alternative music venue, loss of other Plymouth music venues, and this should be reverted to this use
- A restaurant/bar use would add to the tourist offer
- Concern whether the proposed ground floor commercial units will be let, empty units within the area, no demand

Non Planning Issues

- Sutton Harbour should be promoted as an upmarket destination
- Sat Nav directs you to Tin Lane
- Negative impact on house value
- Covenant on building restricting use

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). In the case of this application, it also comprises the Sutton Harbour Area Action Plan. The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. 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 a relatively 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).

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
- Planning Obligations & Affordable Housing 2nd Review Supplementary Planning Document

5 year housing supply:

When determining applications for residential development it is important to give consideration to housing supply. 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”

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.”

For the reasons set out in the Authority’s Annual Monitoring Report (January 2016) Plymouth cannot demonstrate at present a deliverable 5 year land supply for the period 2016-21 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 4,163 dwellings which equates to a supply of 2.17 years when set against the housing requirement as determined by the requirements of the NPPF or 1.8 years supply when a 20% buffer is also applied.

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.

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...

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”

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

8. Assessment

1. This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7.
2. The policies of most relevance to the determination of this application are CS01 (Sustainable Communities), CS02 (Sustainable Design), CS03 (Historic Environment), CS08 (Retail Development Considerations), CS12 (Cultural/Leisure Development Considerations), CS13 (Evening/Night Time Economy Uses), CS15 (Overall Housing Provision), CS18 (Plymouth Green Space), CS19 (Wildlife), CS21 (Flood Risk), CS22 (Pollution), CS28 (Local Transport Considerations), CS30 (Sport, Recreation and Children’s Play Facilities), CS32 (Designing Out Crime), CS33 (Community Benefits/Planning Obligations) and CS34 (Planning Application Considerations).
3. The policies of most relevance from the emerging Plymouth Plan Policy 12 (Delivering strong and safe communities and good quality neighbourhoods), Policy 15 (Meeting local housing needs), Policy 20 (Delivering sufficient land for new homes to meet Plymouth’s housing need), Policy 21 (Provision for shops and services), Policy 24 (Delivering Plymouth Natural Network), Policy 26 (Dealing with Flood Risk), Policy 28 (Promoting Plymouth Heritage), Policy 29 (Place shaping and the quality of the built environment), Policy 30 (Safeguarding environmental quality, function and amenity), Policy 41 (Defining the spatial provision of retail

development), Policy 43 (Managing and Enhancing Plymouth Waterfront), Policy 46 (Approach to planning obligations, the community infrastructure levy and development viability).

4. Principle of Development

The site is located within the Sutton Harbour Area Action Plan boundary. Within the vision diagram, this site is identified as an area to 'conserve and enhance the Barbican and Bretonside' and to ensure new development is sensitive to historic setting.

5. The Vauxhall Street side of the building is located within the existing local centre, which means policy CSI I of the Core Strategy is applicable, which will be considered later.
6. The principle of development depends mainly on whether the loss of the building is acceptable.

7. Loss of Existing Building

In accordance with Para 128 of the NPPF, a Historic Environment Assessment has been submitted with the application. The summary states:

The current buildings forming The Cooperage are probably of late 18th- or early 19th-century date, and have been altered during the late 19th and 20th centuries. The site has archaeological potential for the presence of below-ground deposits, features and artefacts associated with this historic development. The significance of The Cooperage is based on its evidential (both architectural and archaeological values) and aesthetic values, with lesser contributions from its historical and communal values and its setting.

8. The Historic Environment Officer (Archaeology) has confirmed that the site is considered to be of high archaeological importance. Due to the sites location on reclaimed land, there is a likelihood of mediaeval deposits which may lie below the building.
9. The building has been identified as a positive building within the Barbican Conservation Area Appraisal and Management Plan. This means that priority should be given to the retention and enhancement of the building (Principle 3 of the Barbican Conservation Area Appraisal and Management Plan).
10. Due to the sites location within a Conservation Area, this means the existing building is a heritage asset. As the proposal involves the complete removal of the heritage asset, para 133 of the NPPF is a key point of consideration, and copied below.
11. 133. *Where a proposed development 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, or all of the following apply:*
 - *the nature of the heritage asset prevents all reasonable uses of the site; and*
 - *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
 - *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*

- *the harm or loss is outweighed by the benefit of bringing the site back into use.*

12. This means there is a presumption against the demolition of the building, unless the above justification can be provided. Each criteria will be reviewed in more detail below.

13. The nature of the heritage asset prevents all reasonable uses of the site

The Design and Access statement notes that the use as a pub and nightclub will no longer be permitted by the Council due to a licencing objection and therefore the asset has remained vacant and has no viable use. In addition the Design and Access Statement notes “any other use would be extremely difficult, if not impossible, to form the basis of a viable development.” However, there has not been any evidence or details to suggest why other uses would not be viable and why the nature of the building prevents other uses. It is not considered that this is the case and the building could in principle be converted for another use.

14. No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation

The Design and Access Statement has advised that there have been attempts to sell the property. This states that in 2012 the building was put on the market, and subsequently attempts were made to sell it by auction. This was unsuccessful, and it was eventually bought back by the previous and present owner. The applicant has also confirmed this is the case. There has not been any further evidence or information to support this statement, or to show how the building was marketed. In addition, officers are not aware of any more recent attempts to market the property. It's not considered that there has been sufficient recent marketing of the property to find a viable use.

15. Conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible

No information has been provided to show that grant funding/charitable or public ownership has been sought.

16. The harm or loss is outweighed by the benefit of bringing the site back into use.

Whilst there is no planning objection to the proposed use, it is not considered that this creates significant benefits that outweigh the harm from the loss of the building.

17. There is an agreement to S106 obligations which will bring community benefits, however in this case, the harm is considered to be more significant than these benefits. Consideration is also given to the impact on the 5 year housing supply, e.g. purpose built student accommodation will release dwellings from student occupation. Whilst substantial weight is accorded for the need for housing, the NPPF (para 132) states ‘great weight’ should be given to the assets conservation. Taking the above into account, it is considered that the harm caused by the loss of the building is considered greater than the need for housing in this instance.

18. Overall, it is considered that there has not been the full consideration of the retention of the building and reconfiguring it internally. As the building is not listed this gives flexibility to any proposed conversion. To date there has not been the submission of a structural report, nor details for the marketing for the property seeking to re-use the building for variety of uses.

One of the reasons suggested for demolition is to address flood mitigation however it is considered that the building could be altered in order to address flood concerns which has been carried out on other buildings within the Conservation Area. It is not considered that the demolition of this building has been justified and the application is therefore recommended for refusal contrary to the NPPF para 133. This is consistent with the objection received from Historic England, the C20th Society, the Victorian Society and Plymouth Barbican Trust.

19. In addition it is considered contrary to Core Strategy Policy CS03 which states “The Council will safeguard and where possible, enhance historic environment interests and the character and setting of areas of acknowledged importance, including scheduled ancient monuments, listed buildings (both statutory and locally listed), registered parks and gardens, conservation areas and archaeological remains” and Plymouth Plan Policy 28 which states local distinctiveness is conserved through “safeguarding and enhancing historic assets and the character and setting of areas of acknowledged importance, including conservation areas”.

20. Listing process

In June an application was received by Historic England to consider the building for listing. In August the decision from DCMS was received, which noted not to list the building, the reasons are copied below.

21. *Is not recommended for listing at Grade II for the following principal reasons:*

- *Architectural interest: the building is a mixture of styles and dates that does not represent a consistently high quality or innovative design;*
- *Historical interest: the building does not have any known specific claims to historical interest except its overall linked function with the historic Sutton Wharf;*
- *Intactness: the building has been substantially rebuilt and altered in the C19 and C20, and no longer remains a legible and intact C18/C19 warehouse;*
- *Interior: there are no warehouse fittings that would help increase the legibility of the building’s former use.*

22. Whilst the building did not meet the criteria for listing, the building remains a heritage asset, and is considered to have significance locally. The listing decision also made relevant comments in terms of the local importance of the building, and are copied below:

- “The Vauxhall Street frontage, a ‘mock-Tudor’ invention of post-Second World date is of some *local interest* for taking a historicist approach in an area widely rebuilt following the German bombing.
- “.....it retains qualities that clearly add to the setting of Sutton Wharf as a building of appropriate scale, with façades drawing on historical cues and some remaining fabric (principally the Tin Lane elevation and the remaining parts of the interior spine walls)”
- “Despite The Cooperage *making a very positive contribution to the character and appearance of the Barbican Conservation Area*, it does not meet the strict criteria for listing.”
- “Although *The Cooperage has undoubted local historic interest as a reminder of the former character of this part of the city prior to its bombing in The Blitz*, it has undergone considerable

successive alterations which have cumulatively impacted on its claims to special interest. It does not, therefore, merit listing.”

23. Loss of Leisure/Night time use

A licence application was made to re-open the building for use as a music venue and wine bar and in September 2013. The license was refused and the building has remained vacant since this time.

24. The application includes the loss of the existing pub/club. The Core Strategy Policy CS12 seeks to retain leisure uses and Plymouth Plan Policy 34 also supports providing music venues for local and underground talent.

25. Whilst there are concerns regarding the loss of a leisure night time use, given the lack of a premises licence for events, it is not considered that a reason for refusal on this basis would have the required weight needed to defend an appeal, and therefore the application is not proposed for refusal on this basis.

26. Proposed Uses

The application proposes ground floor commercial units. Whilst the Design and Access statement suggests a number of uses (office, retail, restaurant, pub/bar), during the validation process it was confirmed that only retail is applied for which is reflected in the application forms. The site is located within a Local Centre, which is referred to in Policy CS11 of the Core Strategy. On this basis there is no objection to a retail use within this location.

27. Student Accommodation

The application proposes 8 cluster flats. The location is just under 10 minutes' walk from Plymouth University. The application states the proposed units are of generous size for student accommodation and are intended for graduate students. Whilst the University have raised concerns about the development not being needed, agent has confirmed developer interest in the scheme. As there is no policy requirement to justify the need for student accommodation, then there is no objection on this basis.

28. The Emerging Plymouth Plan continues to welcome and support the Universities within the City and the student population. Policy 1 identifies that it is important that every student feels welcome and has access to quality accommodation near their place of study. Policy 15 supports purpose built student accommodation in the form of cluster flats and studio developments where these are in locations close to the education establishment, support wider regeneration objectives, are acceptable in terms of impact on their existing residential areas, and which provide decent accommodation with support facilities.

29. It is considered that being located less than 10 minutes from the University is acceptable. One of the considerations is the impact upon the existing residential area. The impact upon amenity is considered in more detail below. As suggested above, the units are of a generous size for student accommodation, approx. 18sqm including an ensuite and a communal area for each flat approx. 35 sqm. On this basis the flats are considered to provide decent accommodation for future occupiers. A condition could be added to deal with provision for

on-going management of the development. On this basis the student element of the scheme is considered to comply Policy CS15 of Core Strategy and Policy 15 of the Plymouth Plan.

30. Design

The proposed footprint follows that of the existing buildings and provides an active ground floor frontage onto the east and west elevations. The building is proposed to be formed from white aluminium or fibreglass. The building form creates a courtyard around a central atrium, within which is a green wall which extends internally on the west elevation. Along the east elevation ground floor is a covered walkway for pedestrians separating them from the highway.

31. Historic England has not commented in detail on the design however has commented that the design does not reflect the positive elements of the conservation area and has paid little heed to the special character and appearance held within the area. It is not considered that the proposed replacement building is of sufficient quality or innovation that would justify the loss of the existing building.

32. Amenity

Discovery Wharf

This is a flatted development located to the north east of the application site.

These units have balconies fronting on the Sutton Harbour, the majority of which serve the living accommodation. The apartments closest to the development are located approx. 10m from the proposed development. These would give rise to some overlooking of some of the balconies closest to the development site. The apartments furthest away are approx. 50m distant, which is over the distance that is considered to give rise to harmful overlooking (28m is the distance noted in the Development Guidelines SPD for buildings over 3 storeys in height). The overlooking is also partially limited due to the angle of overlooking. These balconies are currently visible from street scene and therefore already subject to some degree of overlooking. As the balconies create a visual separation to the living room behind, this helps to prevent any significant impact upon the privacy of the residents of this accommodation.

33. Century Quay

The proposed building footprint is adjacent to Century Quay. As the building is in line with Century Quay, there is not considered to be any overlooking from the internal accommodation of the proposed building.

34. The overlooking impact from the roof terraces have been raised through the letters of representation. In order to prevent any overlooking, a condition could be added which sets back the boundary of the roof terraces, and the agent has confirmed this would be acceptable. In terms of the noise impact from the roof terrace a condition could also be added to restrict its use, for example: "The proposed terrace shall not be occupied after 21:00 hours or before 07:00hours on any day." This would prevent any noise impact from the entrance during anti-social hours. This is consistent with the advice from Public Protection.
35. The proposed south boundary wall is proposed to be built along an existing boundary wall line. Century Quay has a central courtyard at first floor level (above the parking area) which serves as the amenity space for residents. The construction of a boundary wall will mean the

courtyard, which is currently open on the north elevation, will be enclosed by a part 4/ 6 storey wall. Due to the orientation of the buildings, the wall will not give rise to significant over shadowing; however will result in a sense of enclosure for the courtyard. Whilst this will result in a different character, it is not considered that this would be significantly harmful to result in a reason for refusal.

36. Fortune Court and 144 and 146 Vauxhall Street to north

Fortune Court is located immediately opposite the application site to the north. It's not clear whether there is any residential occupation of Fortune Court, it would appear that there is the residential occupation of the second floor. This presents some small windows on to the proposed building, and there will be some overlooking between the two buildings.

37. Further to the north is 144 and 146 Vauxhall Street. This building is located about 24m from the proposed building and is considered to prevent any significant issues of overlooking.

38. Overall, the development will have some impact in terms of overlooking, however this is not considered to be significantly harmful to result in a reason for refusal.

39. Public Protection have recommended conditions to ensure the building would be constructed to Good Room Criteria. This would help to ensure the amenity of future occupiers would be protected.

40. Flood Risk and Drainage

The site is located within Flood Zone 3. A Flood Risk Assessment has been submitted with this application. Due to its location within flood zone 3, it is necessary to demonstrate that the sequential and exception tests set out in paragraphs 100-102 of the National Planning Policy Framework can be satisfied. Normally, details of the sequential and exception test are provided for appraisal by the Local Planning Authority. In this instance, this information has not been provided and the application is recommended for refusal on the basis of insufficient information.

41. Notwithstanding the above, a flood risk assessment has been provided which has sought to address the flood mitigation on site. This is proposed through raising the ground floor levels. There is a requirement to ensure the development is safe for its lifetime. This has triggered a requirement for S106 contributions towards the upgrading of the Sutton Harbour flood lock gate which has been agreed.

42. Currently there is a lack of information on surface water drainage. The drainage engineer has requested further details and advises that the drainage should have an outfall into the harbour. As there has not been the submission of sufficient information to confirm that the site can be drained in accordance with policy, the application is recommended for refusal on the basis of insufficient information.

43. Transport

The Local Highway Authority has confirmed that the site sits within a resident parking permit scheme which operates on all days 24 hours a day. Pay and Display parking is also available in the area. The Development Guidelines SPD suggests that a development in a parking zone which operates for more than 6 hours a day and 6 days a week could be

acceptable without the provision of off-street car parking. In this instance the applicant states that the residential units would be for student use only and suggests that this would negate the need for, and therefore justifies the lack of parking.

44. The Local Highway Authority has advised that the site would be suitable as a car free non-student residential property and there would be no need to restrict the occupation to student on a transport basis, and also notes nor is there any reason to deem the location to be not suitable for student uses. As the proposal represents a significant increase in development at the site and as such the property and future residents would be excluded from being eligible to apply for resident permits or visitor tickets for use within the scheme. The Local Highway Authority has concluded that a car free development is entirely suitable and appropriate in this location.
45. In terms of design and layout, access to the site is proposed by way of using Tin Lane. This lane is very narrow and not entirely suitable for vehicles however, it is existing and it serves as a means of access to a small private service yard / car park. Therefore it is not possible to close the lane nor is it appropriate to introduce access restrictions as, due to its width and construction, it is only likely to be used for access only with very few through movements.
46. The application includes an undercroft footway along Tin Lane. This would ensure that pedestrians are provided with a suitable refuge and a level access through Tin Lane. The Local Highway Authority has noted that this will also be of benefit to existing pedestrians using the route and is considered to be a highway gain. Due to the design of the walkway, and the building over-sailing it, it is not possible for the Highway Authority to adopt the footway as Highway Maintainable at Public Expense. However, the route should be kept available and maintained accordingly for use by the general public at all times. A dedication of the route as a right of way should be secured by way of a suitably worded condition.
47. Access to the flats is via Tin Lane whereas the ground floor retail units will have accesses onto Sutton Harbour and Vauxhall Street. A bike store and refuse store is also proposed with access from Tin Lane. In terms of servicing and deliveries to the retail unit which fronts onto Vauxhall Street there are limited opportunities due to the buildings proximity to a pelican crossing, which has zig-zag lines preventing any loading/unloading. A short length of double yellow lines exist which have loading restrictions during highway peak hours. The length of double yellow lines are relatively short and any vehicle unloading on them is likely to overhang the junction to Tin Lane. Therefore this location is relatively well controlled and deliveries should not be able to occur on this frontage. The Local Highway Authority notes that deliveries could be achieved from Sutton Harbour for this unit and there are no objections to this.
48. If recommended for approval, conditions would be recommended to deal with a Code of Practice during construction, the re-surface of the entire frontage prior to occupation as deemed appropriate by the Highway Authority, (in accordance with the Plymouth Paving Manual) and a condition to propose doors to open inward so they do not overhang the highway.

49. Contaminated Land

A Phase I contaminated land survey has been submitted and the site is at risk of contamination. On this basis Public Protection have recommended a standard condition which will deal with contaminated land.

50. Ecological Mitigation and Enhancement

An ecological mitigation and enhancement strategy was submitted which noted suitable bird nesting habitats on site and negligible potential for roosting bats was noted on site. It is not considered that further surveys are required. However, a pre-demolition inspection should be undertaken in relation to breeding birds and bats and locations identified for bat and bird boxes which can be dealt with through conditions. Overall there is no objection relating to the ecological impact of the proposal and the development is in compliance with Core Strategy Policy CS19.

51. Secure by Design

The glazed arcade runs along Tin Lane which incorporates the entrance to the student accommodation, which is proposed to be lit at night. In addition CCTV is proposed. The Police Architectural Liaison Officer has raised concern over the access from Tin Lane which, if not lit sufficiently, will add to the fear of crime for persons using this lane. A condition can be added to deal with this requirement.

52. Refuse

A bin store is provided at the ground floor. This is to serve both the retail units and the student accommodation. It is considered that the bin store would be sufficient in size to meet these uses. The refuse store would require a separation between the commercial and student storage, however this could be dealt with by condition, and there is no objection on this basis. The Transport Officer has also confirmed that the development guidelines SPD requires bin storage to be located away from access points but within 25 metres of a service vehicle collection point. The proposal conforms to this standard and as such is acceptable.

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 is £140,029.01 (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 and agreed in respect of the following matters:

- Local Greenspace: for the provision and maintenance of facilities at the Jewish Cemetery, Barbican £13,709
- Strategic Greenspace: for the provision and maintenance of greenspace and access improvements at Central Park £30,577
- Playing Pitches: for the provision and maintenance of playing pitch facilities at Astor Park £24,867
- Flood Defences: for the study to consider the upgrade of defences at Sutton Harbour £25,000
- Management Fee of £2668

12. Equalities and Diversities

The retail units have a ramped access, and the student cluster flats are served by a lift which will allow for level access.

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 and specifically 132 and 133 of the NPPF, Core Strategy Policy CS03, Plymouth Plan Part One Policy 28, Sutton Harbour Area Action Plan and the Barbican Conservation Area Appraisal and Management Plan. The loss of the building making a positive contribution towards the Conservation Area (as identified in the Barbican Conservation Area Appraisal) is considered to result in substantial harm to the character and appearance of the Barbican Conservation Area.

In addition the Local Planning Authority has not received adequate information to demonstrate that provision has been made to ensure that the site drains adequately and no sequential or exception test has been provided, contrary to paragraphs 100 - 103 of the National Planning Policy Framework and Policies CS20 and CS21 of the Adopted Plymouth Core Strategy and Policy 26 of the Plymouth Plan: Part One (as draft development plan policy).

14. Recommendation

In respect of the application dated **09/05/2016** and the submitted drawings Site Location, Section 3 North Elevation Towards Tin Lane, Section 1 east Elevation Towards Sutton Harbour, Section 2 West Elevation Towards Vauxhall Street, PL01 A, PL 02 A, PL 03 A, PL 07, PL 08 A, PL 12, PL 13, PL 14, it is recommended to: **Refuse**

15. Reasons

REFUSAL REASON: LOSS OF HERITAGE ASSET

1. The Local Planning Authority considers that the loss of this key historic building would result in substantial harm to the character and appearance of the Barbican Conservation Area. The complete loss of this heritage asset which marks the entrance to the Conservation Area would therefore be contrary to paragraphs 132 and 133 of the NPPF, Core Strategy Policy CS03, Plymouth Plan Part One Policy 28, Sutton Harbour Area Action Plan and the Barbican Conservation Area Appraisal and Management Plan.

REFUSAL REASON: INSUFFICIENT INFORMATION SEQUENTIAL TEST AND DRAINAGE

2. The Local Planning Authority has not received sufficient information to demonstrate that provision has been made to ensure that the site drains adequately and flooding will not occur. In particular no sequential or exception test has been provided and there is a lack of detail regarding surface water drainage contrary to paragraphs 100 - 103 of the National Planning Policy Framework and Policies CS20 and CS21 of the Adopted Plymouth Core Strategy and Policy 26 of the Plymouth Plan: Part One (as draft development plan policy).

INFORMATIVE: REFUSAL (WITH ATTEMPTED NEGOTIATION)

(1) 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, the emerging Plymouth Plan 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

CS32 - Designing out Crime

CS33 - Community Benefits/Planning Obligation

CS34 - Planning Application Consideration

CS22 - Pollution

CS08 - Retail Development Considerations

CS13 - Evening/Night-time Economy Uses

CS18 - Plymouth's Green Space

CS19 - Wildlife

CS21 - Flood Risk

CS22 - Pollution

CS03 - Historic Environment

CS03 - Historic Environment

CS01 - Sustainable Linked Communities

CS02 - Design

CS15 - Housing Provision

CS12 - Cultural / Leisure Development Considerations

CS30 - Sport, Recreation and Children's Play Facilities

AV5 - Sutton Harbour

SPD2 - Planning Obligations and Affordable Housing

SPD1 - Development Guidelines First Review

SPD3 - Design Supplementary Planning Document

NPPF - National Planning Policy Framework March 2012

PP12 - Delivering strong and safe communities and good quality neighbourhoods

PP15 - Meeting local housing needs

PP20 - Delivering sufficient land for new homes to meet Plymouth's housing need

PP21 - Provision for shops and services

PP24 - Delivering Plymouth's natural network

PP26 - Dealing with flood risk

PP28 - Promoting Plymouth's heritage

PP29 - Place shaping and the quality of the built environment

PP30 - Safeguarding environmental quality, function and amenity

PP41 - Defining the spatial provision of retail development and main town centre uses

PP43 - Managing and enhancing Plymouth's waterfront

PP46 - Approach to development delivery and viability, planning obligations and the community infrastructure levy

Barbican Conservation Area Appraisal and Management Plan