

## Queens Drive - Planning Position Statement

### Current Planning Position for Site Wide Redevelopment

Outline planning permission was granted in January 2014 under application No. 13/1819/MOUT for the redevelopment of the full Queens Drive site including a water sports centre, holiday accommodation, indoor leisure activity buildings, café, restaurant and other associated car parks and other works. The site comprised the existing Harbour View Cafe and tower to the west, the land and buildings up to the boundaries of Madeira Walk and the Bowling Club to the north, the cricket ground and The Maer to the east, and to the beach including Queens Drive and the public car park to the south. The permission was in outline only with the details (referred to as reserved matters in the consent) to be submitted within 3 years of the date of the permission and development to have commenced within 2 years of the last of the reserved matters to be approved. This meant that all reserved matters applications had to be made by the 24<sup>th</sup> January 2017.

Two reserved matters applications were submitted against the outline permission within the 3 year period for such submissions. Firstly for the realignment of Queens Drive and its associated parking areas and related demolitions which was approved in March 2016. This was followed by a reserved matters application for the water sports centre, holiday accommodation and indoor leisure and retail uses which was approved in April 2017. Only the road re-alignment works were implemented under the outline permission with the water sports centre and associated units being the subject of a separate full planning application in 2018 because by that stage the period for the submission of reserved matters applications under the outline had lapsed.

With the outline planning permission for the redevelopment of the Queens Drive area having now lapsed there is no extant permission for the redevelopment of the area.

The adopted Local Plan makes reference in explanatory text on page 69 of the plan to the Exmouth Seafront Masterplan and Regeneration Proposals and the masterplan adopted in 2011. The proposals of the masterplan were not incorporated into policy in the Local Plan because they had not been fully assessed in terms of their impact on the European protected habitats of the Exe Estuary and Pebblebed Heaths. The evidence of recreational impacts on the habitats had been emerging at the time of the masterplan and has subsequently strengthened. There is not therefore direct policy in the Local Plan relating to the Queens Drive site however the site is within the built-up area boundary of the town and so subject to detailed policies of the plan in relation to design, amenity, habitat mitigation, flood risk etc the site has development potential.

## Temporary Uses

Planning permission was first granted for the temporary events space in March 2018 for a 12 month period. This was then renewed in February 2019 for a further 36 months. As a result this consent expires on the 15<sup>th</sup> February 2022.

Temporary consents should by definition be temporary and are used to test whether something is acceptable through a “trial run”. Government guidance on this issue reads as follows:

***When can conditions be used to grant planning permission for a use for a temporary period only?***

*Under [section 72 of the Town and Country Planning Act 1990](#) the local planning authority may grant planning permission for a specified temporary period only.*

*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.*

*A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a ‘meanwhile use’).*

*It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.*

*A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted.*

The events space has been “tried” for 4 years now and so it is considered that it would be difficult to justify a further trial period in light of government guidance. There is now sufficient information to determine if this use is appropriate as a permanent use of the site or to now bring forward an alternative use for either a trial period or a permanent redevelopment of the site as was originally envisaged. Equally the current temporary uses could be established on a permanent basis at least in terms of the planning permission with the Council retaining control as land owner over whether the uses do actually continue on a permanent basis. Of course Members may wish to grant a further temporary consent despite government guidance on this issue. The risks of such an approach being challenged through a

legal challenge and any reputational harm from being seen to deviate from government guidance on this issue would need to be considered by Members.

### Permanent Redevelopment

As previously mentioned there is no specific policy allocation for the Queens Drive site in the current local plan. The new Local Plan presents an opportunity to allocate the site. It was put forward in 2017 as part of the HELAA (Housing and Economic Land Availability Assessment) (see plan at the top of the next page). As it was not of a scale for consideration under GESP an assessment of its potential will only now be undertaken.

### HELAA Interactive Map



Ref No: exmo\_02

#### Map legend

-  HELAA 2021 Sites no longer available
-  HELAA 2017 GESP
-  HELAA 2021 Call for Sites
-  HELAA 2017 non GESP

The HELAA submission refers to the site as being for “Mixed use leisure – wider seafront/town/sub-region regeneration”. A high level assessment of the site will come through the HELAA process, however it will be important for officers to understand how Members wish to progress with the site, its potential uses and how it should be considered in the new Local Plan. It should however be noted that the site lies in an extremely sensitive location where the impact of any redevelopment on the Exe Estuary will need careful consideration and will require a full Environmental Impact Assessment to be carried out. Development for residential accommodation including hotel and holiday accommodation or other leisure uses that attract people to this location for recreational purposes are likely to have a significant effect on the protected habitat and would at the very least require mitigation if indeed they would be acceptable at all.

It should also be noted that the majority of the site is in an area designated as Flood Zone 3 due to the risk of fluvial/tidal flooding. In such areas only uses identified as water compatible and less vulnerable should be permitted. This would allow uses such as shops, restaurants, cafes and other business spaces but residential uses are classed as vulnerable uses that would only be permitted as an exception to policy. To achieve this whether through an allocation in the new Local Plan or through the planning application process the sequential test would first have to be satisfied to demonstrate that the development cannot be located in an area at lower risk of flooding. If the sequential test is satisfied then the exceptions test can be applied.

To pass the exceptions test it should be demonstrated that:

- (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

#### Local Plan

Pursuing the large scale redevelopment of the Queens Drive area and indeed other areas within the town would pose some significant challenges to production of the new Local Plan since the agreed timetable for its production does not take this work into account. The current agreed timetable for local plan production is as follows:

- Draft plan – consultation starting early summer 2022.
- Publication – consultation starts October 2022.
- Submission – March 2023.
- Inspector's Hearings – July 2023.
- Adoption – February 2024.

This timetable would appear to make it impossible to incorporate as yet undefined regeneration projects as allocations in the new Local Plan and yet such projects should be included such that the scale of growth in the town and its impacts can be fully understood and assessed. Pursuing such projects alongside and yet separately from the Local Plan raises a number of technical challenges for local plan production. It would also be likely to raise challenges for consultation work and reputation management that would need careful consideration.

## Conclusion

From a planning perspective while the site is in a prime location on the seafront in the largest town in the district and has a lot of development potential it is not without its challenges given the sensitivity of the natural environment it lies within and adjacent to. Other challenges and potential costs relate to the need for a high quality design given its prominent location and the need to have regard to issues such as the impact on resident's further in-land. A redevelopment for an appropriate range of uses and built to high quality with appropriate mitigation for its impacts could however be a real asset to the town and the district. Should Members wish to pursue this work then careful consideration would need to be given to how it fits with production of the local plan and community engagement on it.

## Appendix 1 – Queens Drive Redevelopment Planning History (latest first)

<a href="#">20/0351/VAR</a> Variation of Condition	Variation of condition 2 (approved plans), planning permission 18/0376/MFUL (watersports centre, cafe, restaurant and retail) to allow addition of glass canopy with retractable walls and roof over first floor terrace, fenestration changes, changes to parking arrangements and the addition of 2 no. electric car charging points.	Application Returned
<a href="#">20/0324/VAR</a> Reserved Matters	Variation of condition 2 (approved plans), planning permission 18/0376/MFUL (watersports centre, cafe, restaurant and retail) to allow addition of glass canopy with retractable walls and roof over first floor terrace, fenestration changes, changes to parking arrangements and the addition of 2 no. electric car charging points.	Approval with conditions 24/07/2020
<a href="#">19/1191/ADV</a> Application to Display Adverts	Double sided information board	Approval with conditions 23/07/2019
<a href="#">19/0836/FUL</a> Full Application	Overflow car park of approximately 50 vehicles	Approval with conditions 15/07/2019
<a href="#">18/2842/FUL</a> Full Application	Temporary use of land, buildings and structures for a thirty six month period for the purposes of entertainment, recreation and leisure.	Approval with conditions 15/02/2019
<a href="#">18/2496/FUL</a> Full Application	Temporary use of land, buildings and structures for a 12 month period for the purposes of entertainment, recreation and leisure	Withdrawn 17/12/2018
<a href="#">18/0376/MFUL</a> Major - Full application	Construction of new water sports centre including various facilities for water sports users, a cafe, restaurant and retail plus car parking and open space together with associated infrastructure including new stepped and ramped access to the beach and landscaping	Approval with conditions 07/06/2018
<a href="#">17/2944/FUL</a> Full Application	Temporary use of land, buildings and structures for a twelve month period for the purposes of entertainment, recreation and leisure to also include the permanent infilling of existing boating ponds plus all associated infrastructure and development	Temporary Approval 16/03/2018
<a href="#">17/0099/MRES</a> Major - Reserved Matters app.	Reserved matters application pursuant to outline application 13/1819/MOUT seeking approval of access, appearance, landscaping and scale for the construction of new buildings including watersports centre, holiday accommodation, indoor leisure and retail uses.	Approval with conditions 13/04/2017

<a href="#">15/2493/FUL</a> Full Application	Infill of 2 no ponds with site-won material from adjacent highway works	Withdrawn 11/03/2016
<a href="#">15/2487/MRES</a> Major - Reserved Matters app.	Approval of access, appearance, landscaping and scale for the highway realignment and parking areas, demolition of cafe, selected beach huts and shelter as part of the reserved matters of outline application 13/1819/MOUT.	Approval with conditions 21/03/2016
<a href="#">13/1819/MOUT</a> Major - Outline application	Construction of new buildings on 3.6 hectare site for : watersports centre with storage (1450m2): holiday accommodation with parking and gardens (3000m2); indoor leisure activity buildings (1165m2) with external attractions and staff parking; new cafe, restaurant and retail use (1200m2); a minimum 250 space car park: landscaping; realignment of Queens Drive and continuation of pedestrian promenade; improved connectivity to the Maer and beach; and the selected demolition of existing buildings. Outline planning application with all matters reserved except layout.	Approval with conditions 24/01/2014