

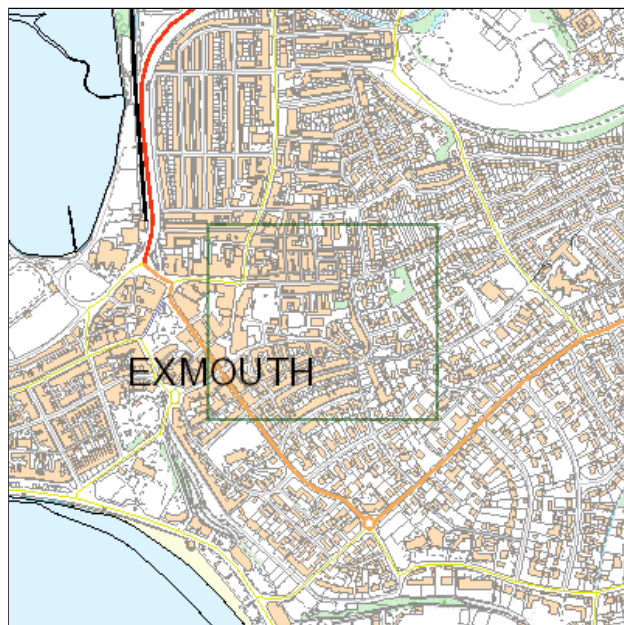
Ward Exmouth Town

Reference 22/2120/MFUL

Applicant Churchill Retirement Living

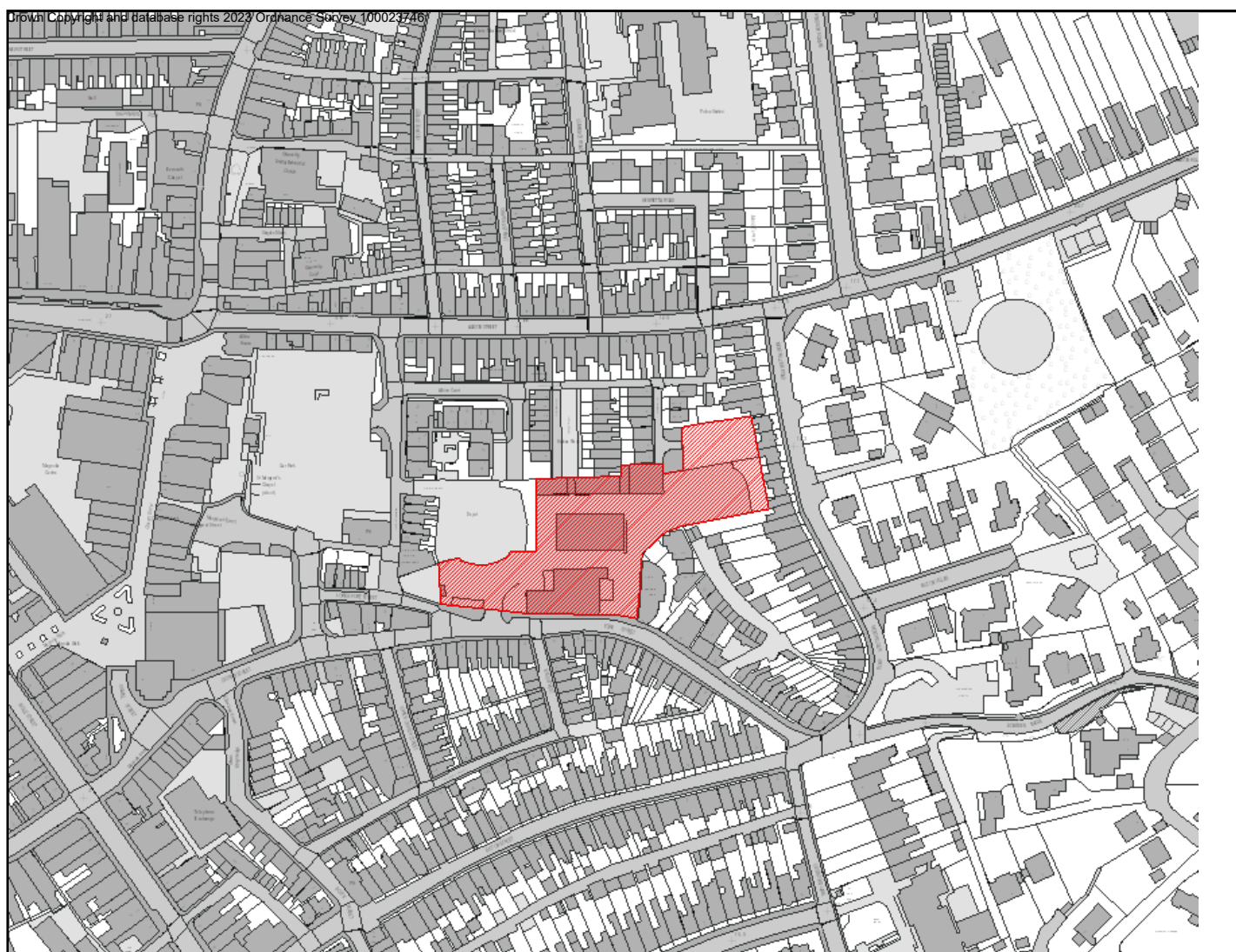
Location Jewson Ltd Fore Street Exmouth EX8 1HX

Proposal Redevelopment for 54 retirement living apartments and 6 retirement living cottages, including communal facilities, access, car parking and landscaping and 178sqm of commercial use (Class E)



RECOMMENDATION:

- 1. Adopt the Appropriate Assessment forming part of the report**
- 2. APPROVE subject to a Legal Agreement and conditions**



		Committee Date: 13.06.2023
Exmouth Town (Exmouth)	22/2120/MFUL	Target Date: 26.12.2022
Applicant:	Churchill Retirement Living	
Location:	Jewson Ltd Fore Street	
Proposal:	Redevelopment for 54 retirement living apartments and 6 retirement living cottages, including communal facilities, access, car parking and landscaping and 178sqm of commercial use (Class E)	

RECOMMENDATION:

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EXECUTIVE SUMMARY

This application is before Committee because it is a major application and the Officer recommendation is contrary to the views of the Ward Member and Town Council.

Planning permission is sought for the demolition of the existing buildings and clearance of the land associated with the Jewson builders' merchants and the re-development of the site with a three storey apartment block comprising 54 age restricted apartments, together with 6 retirement cottages, and associated parking and landscaping.

It is considered that whilst the proposal would result in the loss of an existing employment site, it would continue to retain a commercial use, would provide employment and would support the vitality and viability of the adjacent town centre. As such, and in line with recent appeal decisions elsewhere, it does not therefore become necessary to market the site prior to submitting an application. Whilst some concern has been raised that the redevelopment would not fulfil the site's potential in terms of job creation, it will nevertheless provide ongoing employment and will not harm business or employment opportunities in the area. As such it is considered that the principle of the development is acceptable.

The building has been designed to be generally reflective of its surroundings, using local detailing with staggered roof forms stepping up the rising land, and articulation of the frontage building to help to reduce its overall height, bulk and massing of the building such that it would not appear unduly prominent or

intrusive within the street scene to a degree that would cause harm to the character and appearance of the area, including the nearby conservation area. The existing buildings and development on the site make no positive contribution to the visual amenity of the site and its replacement with the proposed apartment building is considered to represent an enhancement of the visual amenity of the site and character and appearance of the area.

The development has been designed to ensure that any impact on the residential amenities of the occupiers of surrounding properties would be acceptable. By using the existing site levels it is considered that the frontage building would form an acceptable relationship with the surrounding properties such that it would not result in significant harm to amenity in terms of its physical impact, overbearing or over dominant nature, loss of light or loss of privacy. The cottages to the rear of the site are of a scale and position such that they would not have a significant or unacceptable impact on the amenities of neighbouring residents.

Technical issues such as surface water drainage, access, parking provision and highway safety, ecology and impact on trees have been satisfactorily addressed in the application and a financial contribution will be secured towards affordable housing.

The proposal is in a highly sustainable location and would use a previously developed site which is encouraged by local plan policy.

At a time when the Council cannot demonstrate a 5 year housing land supply, the addition of 60 new units of accommodation would make a positive contribution to the shortfall, and that in the absence of any other overriding factors weighing against the development the application is recommended for approval, subject to the applicant entering into a S106 Agreement to secure the financial contribution towards affordable housing.

CONSULTATIONS

Local Consultations

Exmouth Town - Cllr Olly Davey

I have a number of objections to this. The first is that this will entail a change from commercial/employment to residential use, and I would resist any such change in line with Strategy 32 of the Local Plan, especially in the town centre. Secondly, Exmouth already has an overprovision of housing for older people - in fact, one has just succeeded at appeal on Salterton Road. Thirdly, this is unlikely to be affordable for local residents, as it is very conveniently placed for the town centre, and likely to command prices only affordable for those coming from more affluent areas.

As a member of EDDC planning committee, I reserve my final view until I have seen all reports and heard all relevant opinions.

Further comments on 25/5/2023

I continue to object to this application. While I accept the justification given for the loss of employment land, it is clear that the Economic Development team do not, and cite examples of businesses being unable to find suitable premises. However, I appreciate that it could be difficult to develop this site for other commercial or employment purposes.

The proposed commuted sum for affordable housing is derisory and the viability arguments seem to relate to the type of housing proposed, e.g. the need to provide communal spaces and other facilities. My main objection is to the type of housing proposed. We already know that this part of East Devon has an ageing demographic, and the last thing we need is more retirement housing. A similar development was recently approved on appeal in Salterton Road. What we need is housing for younger people and families in this highly sustainable location. The commercial aspect, looking at the Urban Designer's comments, seems poorly thought out and possibly a token gesture.

I am sure that officers have done their best to achieve an attractive and harmonious design for the building, and it would no doubt be an improvement on what is there now, so that is not my issue. However, so long as this proposal is for retirement accommodation, I continue to object.

Parish/Town Council (amended plans)

Objection sustained; previous concerns raised have not been mitigated. It was further noted that the application was contrary to local plan policy E9 (4).

Parish/Town Council (additional information)

Unanimous sustained objection, the additional information did not mitigate concerns raised. Exmouth Neighbourhood Plan policy EE3 does not support change of use of employment land and no evidence has been submitted that the land has been marketed for the prerequisite minimum period. Additionally, members wished to add that the application is contrary to Policy H2 of the Exmouth Neighbourhood Plan as the application fails to deliver 25% affordable housing. Exmouth is already overloaded with this type of development and fails to deliver an identified housing need for 1- or 2-bedroom units.

Parish/Town Council

Unanimous objection. The associated change of use from employment land to residential is contrary to policy EE3 of the Exmouth Neighbourhood Plan and there is no evidence that the site has been marketed effectively for the prerequisite minimum period.

The proposed development is also contrary to policy EB2 of Exmouth Neighbourhood Plan in so far as the proposed three storey design is incongruous with the surrounding 2 storey street scene.

Technical Consultations

County Highway Authority

The County Highway Authority (CHA) provided pre-application advice to the developer of this application.

The access to be used is existing with its existing visibility.

The double yellow lines currently laid across this access is a mistake by the CHA and will be removed shortly. The internal highway layout is satisfactory and I believe the trip generation will be of a similar benchmark to that of the former retail use.

Parking numbers is a policy to be administered by the Local planning Authority, East Devon District Council. Though it is noted that residential retirement developments tend to produce a lower vehicle trip generation in comparison to open-market housing.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Environment Agency (amended plans)

Thank you for re-consulting us on this application.

Our position remains unchanged following our previous response on the 11/10/2022 which is outlined below:

Environment Agency position

We have no objections to this proposal provided that conditions in respect of contaminated land are included within any permission granted. Without these conditions we would object to the proposal in line with paragraph 174 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

The suggested wording for our recommended conditions is provided below together with related advice.

Condition - Site Investigation and Remediation

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:

- o all previous uses

- o potential contaminants associated with those uses
 - o a conceptual model of the site indicating sources, pathways and receptors
 - o potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition - Piling

Piling or deep investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition - Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Advice - Contaminated Land

We have previously provided pre-application advice in relation to this planning application, which included review of the Phase 1 reports submitted in support of the application. We advised the applicant that the further assessments needed for management of land contamination at the site could, in our opinion, be secured through planning conditions. We consider that the above-mentioned conditions will be sufficient to secure the further work required.

Conservation (amended plans)

ADDRESS: Jewson Ltd, Fore Street, Exmouth

GRADE: Adj II APPLICATION NO: 22/2120/MFUL

Amended plans received 27th February 2023:

The amended plans seek to address the concerns previously raised. The changes are minimal:

South elevation:

- o Now mainly red facing brick;
- o Hip roof to end unit over shopfront;
- o 'Blind' windows to elevation over Unit 2.

West elevation:

- o Shop units now red facing brick;
- o Hip roof to end unit over shopfront;
- o Chimney relocated to centre of ridge over shop units.

Whilst in themselves these are an improvement, the overall changes are minimal and do not change the previous concerns raised.

It is still considered that whilst the redevelopment of the site for housing is acceptable in heritage terms, that the overall layout, size and scale, is out of keeping with the surrounding area and likely to result in some harm to the adjacent Conservation Area and the setting of the listed buildings.

Conservation

CONSULTATION REPLY TO WEST TEAM
PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION
AREA

ADDRESS: Jewson Ltd, Fore Street, Exmouth

GRADE: Adj II APPLICATION NO: 22/2120/MFUL

CONSERVATION AREA: Adj Albion Street/Windsor Square & Bicton Street

PROPOSAL: Redevelopment for 54 retirement living apartments and 6 retirement living cottages, including communal facilities, access, car parking and landscaping and 178sqm of commercial use (Class E)

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

No's 14 - 22 Montpellier Road are listed Grade II: Earlier/mid C19. 5 terraced houses of unusual design. Colourwashed stucco facades. Slate roofs. Tall, red brick, chimneys. 2 storeys.

The rear of the properties currently back onto the Jewson site.

Holy Trinity Church is listed Grade II*: there are distant views of the tower from the site.

This is a relatively large site close to the centre of Exmouth. Currently occupied by Jewsons Builders Merchants, it is surrounded by residential properties and a large surface car park to the west.

The Heritage Statement provided is a comprehensive document which describes the site in considerable detail.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

The site is currently in commercial use. However, the principle of the redevelopment of the site is a policy concern and the comments below relate specifically to the impact on the adjacent Conservation Areas and the listed buildings and overall design of the site.

It is considered that overall the site in its present use detracts from the overall character and appearance of the mainly residential adjacent Conservation Area. However, there are a number of existing buildings within the site which are considered to be of historic interest (see Heritage Statement for further details). They are considered to have some local interest and contribute to the overall appearance and give context to the site in relation to its previous use as a Gas Works (1840's to 1960's).

Development: this includes the removal of all existing buildings, the construction of a principal building (Area A), retirement cottages (Area B & C), a car park, the reconfiguration of the vehicular access from Fore Street and associated landscaping, public areas and boundary treatments.

Existing buildings: consideration needs to be given to those of more historic merit and whether these can be utilised in any redevelopment of the site. At the very least they should be fully recorded, see DCC Archaeology comments.

Layout: it is considered that more reference should be made to the overall historic pattern of development with individual dwellings located along the frontage of Fore

Street, appropriate in size and scale to the local area (two storey rather than three storey). There is no objection to the introduction of commercial units at ground floor adjacent to Lower Fore Street, but again these should consider being closer to the edge of pavement. There maybe some scope to provide similar two storey dwellings to the rear (north) of the site.

Elevations: no objection in principle to the traditional appearance, but should be reduced in height and consider using render rather than a cream/buff brick. It is unfortunate that due to the development of a principal building (Area A) that this results in the insertion of patio doors on the principal frontage.

Cottage development: the site of the original gas tanks, the cottages will back onto the listed building with gardens and 'green buffer' between them. It is not clear how this would be managed or maintained, as it appears to be outside both ownerships. The cottages would benefit from being more traditional in appearance with gabled roofs rather than hipped.

Parking: the large area of car parking in the centre of the site detracts from the frontage to the cottages and dominates the overall setting for the development. There appears to be no dedicated pedestrian access to the cottages through the car park. In the light of the number of units the level of parking appears to be inadequate, but clearly this is a town centre site with easy access without the use of a car.

Materials: the use of traditional materials is expected including natural slate, red brick, brick detailing, render, timber windows etc. Attention to detailing and local distinctiveness within Exmouth would assist the scheme, perhaps in the form of actual materials, boundary walls, fences, and surfacing.

Design: Any development here should make a positive response to the site and the surrounding context. Special regard should be given to matters such as height, form, massing, and respect for the traditional pattern of development close by, vertical or horizontal emphasis, and detailed design (eg. the scale and spacing of window openings, and the nature and quality of materials). General planning standards should be applied sensitively in the interests of harmonising the new development with its neighbours in the surrounding area and to enhance and better reveal the setting of the adjacent Conservation Area and the setting of the listed buildings in Montpellier Road.

Impact: it is considered that whilst the redevelopment of the site for housing is acceptable in heritage terms, that the overall layout, size and scale, is out of keeping with the surrounding area and likely to result in some harm to the adjacent Conservation Area and the setting of the listed buildings.

**PROVISIONAL RECOMMENDATION - PROPOSAL
UNACCEPTABLE**

EDDC Trees

14/04/23 - Previous comments still apply:

In principle I have no objection but I would like to see a more detailed landscaping scheme for tree planting including the following information based on the right tree, right location:

species, size, tree pit details, appropriate soil volume, grilles, guards, mulching, staking, guying and watering arrangements are required.

South West Water (amended plans)

I refer to the above application and would advise that South West Water has no objection or further comments, and affirm that the advice contained in the previous correspondence dated 20th December 2022 still apply

South West Water (additional information)

I refer to the above application and would advise that agreement has been reached regarding the disposal of surface water. I can now advise that South West Water has no objection subject to the surface water being managed in accordance with the proposed drainage strategy, ensuring the maximum discharge rate will be 1.5 l/sec for the whole site.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

I refer to the above application and would advise that, given the current proposed surface water strategy (discharge to a public combined sewer) and the presence of existing public sewers crossing the site, the applicant should contact South West Water at their earliest convenience.

I would further state that our advice contained in the previous correspondence dated 10/10/2022 still applies (attached again for reference).

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Please advise the applicant to contact South West Water to discuss the surface water drainage strategy with us.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

South West Water

I refer to the above application and would advise that whilst South West Water has no objection, the applicant/ agent is advised contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

Please find enclosed a plan showing the approximate location of a public 300mm diameter sewer and a public 150mm diameter sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewers, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer(s) will need to be diverted at the expense of the applicant.

Please click [here](#) to view the table of distances of buildings/structures from a public sewer.

Further information regarding the options to divert a public sewer can be found on our website via the link below:

www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

www.southwestwater.co.uk/developers

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,

4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

see sewer record map under "document" tab

Environmental Health

In addition to my previous comments:

The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

Reason: To protect the amenity of local residents from noise.

The applicant must ensure that sound insulation works are carried out in all commercial units in order to ensure that noise (including low frequency noise) generated within the units does not disturb the occupiers of the associated residential premises.

Reason : To protect the amenities of local residents.

Environmental Health

A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.

Reason: To protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution.

Contaminated Land Officer (amended plans)

As per my previous comments
In addition to my previous comments:

The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.

Reason: To protect the amenity of local residents from noise.

The applicant must ensure that sound insulation works are carried out in all commercial units in order to ensure that noise (including low frequency noise) generated within the units does not disturb the occupiers of the associated residential premises.

Reason : To protect the amenities of local residents.

Contaminated Land Officer

Contamination investigation and remediation strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the identified risks associated with contamination of the site as identified within Crossfield Consulting's Ground Investigation Report. The remediation strategy must be submitted to, and approved in writing by, the local planning authority.

A verification plan must also be provided, that details the data that will be collected in order to demonstrate that the works set out in the remediation strategy in are complete.

In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken and where further remediation is necessary a new remediation scheme must be prepared. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN16.

DCC Historic Environment Officer (amended plans)

I refer to the above application and your most recent re-consultation. The Historic Environment Team has no additional comments to make to those already made, namely:

The proposed development site lies on the edge of the historic core of Exmouth and in an area developed from the 19th century onward including the establishment of the town's gasworks. The archaeological desk-based assessment highlights that the geotechnical investigations have identified the survival "buried foundations and substructures associated with the former gasworks and residential buildings" and that "an air raid shelter may be present in the northeast corner of the Site". Also the site contains historic buildings associated with the 19th century gasworks and the possible site of a WWII air road shelter.

These heritage assets are not of such significance that they preclude development of the site or that any additional heritage information is required in support of the application to supplement the heritage statement and archaeological desk-based assessment reports prepared by ECUS. However, the extant buildings and any surviving below-ground archaeological deposits associated with the 19th century development of the town, as well as the WWII shelter, will be impacted upon by the proposed development and this should be mitigated by a programme of heritage work that should investigate, record and analyse the heritage evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of (i) historic building recording and (ii) archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to

and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of historic building fabric and archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the historic building recording and archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with a programme of historic building recording in advance of any demolition work, followed by the excavation of a series of evaluative trenches to determine the significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of evaluative works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able

to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

DCC Historic Environment Officer

I refer to the above application and your recent consultation. The proposed development site lies on the edge of the historic core of Exmouth and in an area developed from the 19th century onward including the establishment of the town's gasworks. The archaeological desk-based assessment highlights that the geotechnical investigations have identified the survival "buried foundations and substructures associated with the former gasworks and residential buildings" and that "an air raid shelter may be present in the northeast corner of the Site". Also the site contains historic buildings associated with the 19th century gasworks and the possible site of a WWII air road shelter.

These heritage assets are not of such significance that they preclude development of the site or that any additional heritage information is required in support of the application to supplement the heritage statement and archaeological desk-based assessment reports prepared by ECUS. However, the extant buildings and any surviving below-ground archaeological deposits associated with the 19th century development of the town, as well as the WWII shelter, will be impacted upon by the proposed development and this should be mitigated by a programme of heritage work that should investigate, record and analyse the heritage evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of (i) historic building recording and (ii) archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National

Planning Policy Framework (2021), that an appropriate record is made of historic building fabric and archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the historic building recording and archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with a programme of historic building recording in advance of any demolition work, followed by the excavation of a series of evaluative trenches to determine the significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of evaluative works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Housing Strategy/Enabling Officer - Jo Garfoot

Under strategy 34 of the adopted local plan this site should be providing 25% on-site affordable housing (15 units). As has been agreed with other retirement apartments

schemes in the district, on-site provision of affordable housing is not always appropriate. In this case there is the option to provide some on-site affordable units with the 6 cottages and this was communicated at pre-app stage unfortunately the applicant did not pursue this. A commuted sum towards the provision of affordable housing will be sought. This amounts to $60 \times £11,559 = £693,540$.

The applicant has submitted a viability appraisal claiming that the scheme cannot support this amount towards affordable housing. They are claiming that the scheme could support a payment of £32,770 which is disappointing. The viability assessment will be reviewed by the Council in due course. As with all other Churchill schemes in the district where viability is often argued I am hopeful that this scheme can provide a full commuted sum. Exmouth is the highest area of housing need in Exmouth and supply of affordable housing is difficult, especially with retirement schemes and viability challenges.

An overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

Development Delivery Project Manager - Andy Champion – Additional Comments

I have now had chance to review the viability statement for development at Land and Buildings on The North Side of Fore Street, Exmouth, EX8 1HX by Bailey Venning Associates Limited (BVA), and associated documents including Lichfields Economic and Retail Statement and also Awcock Ward Partnership (AWP) Flood risk and technical note. I comment as follows:

Land Acquisition Costs:

Legal Fees – Land purchase legal fees assumed at 0.75% of the residual land value on purchase.

Acquisition Agent fees – 1%.

GDV and Market Housing Values:

The GDV seems reasonable, their market research appears (comparables) to be extensive and I would agree with their methodology and therefore agree with the market values given in this appraisal.

Ground rent:

It is anticipated that the developer will not be able to charge ground rent. Ground rents are not therefore included within the appraisal. Agreed.

Commercial Rental Values:

The rental values provided in the viability seem to be in line with Lichfields Economic statement.

Review of build costs:

The build costs for the proposed scheme are shown between £1,674 per m² (2 – Storey) and £1,633 (3-storey) these appear to have regard to BCIS rates for Supported housing and seem to be in line generally with BCIS rates for median quartile construction. I consider these build costs are reasonable.

External Works:

External works at 10% are within EDDC's normal acceptable parameters (15%).

Abnormals Costs:

Having asked for further qualification on a number of these costs, I am satisfied with both the costs produced in the report and also the qualification by the Agent regarding these abnormal costs.

Contingency level:

5% is within EDDC's normal acceptable parameters.

Section 106 Payments;

NHS Gap Funding = £23,380.

CIL Residential / Commercial:

All the retirement housing within the above development have a £0 CIL charge.

All the commercial units within this planning application fall within the £0 CIL Retail Zone.

So there will be no CIL charged for the above development

Habitat Mitigation:

@ £368 per dwelling agreed.

All Professional fee values:

Architects, QS, M&E Engineer fees, Structural Engineer and Project Management Costs etc.): 10% is within EDDC's normal acceptable parameters.

Acquisition Fees:

Legal Fees – Land purchase legal fees assumed at 0.75% of the residual land value on purchase.

Acquisition Agent fees – 1%.

Seem reasonable

Finance costs:

Finance costs of 6.75% is above EDDC's normal acceptable parameters of 6.1% - 6.5%. Given the current economic climate, with lenders having become increasingly risk adverse and therefore funding is becoming harder to acquire. Along with The Bank of England raised the base rate to 1.75% in August 2022, with further rate rises anticipated. The 6.75% costs, seems reasonable.

Marketing cost:

3% is slightly higher than EDDC's normal acceptable parameters, but the explanation given is acceptable.

Disposal fees:

Sales Agent Fee of 2%

Legal fees 0.3% per unit

These general appear to within normal acceptable parameters that I would have expected to see.

Developers Profit: 19.97% is within EDDC's normal acceptable parameters, although be it at the top end. We have tried to negotiate this figure down, but the developer is adamant that is the lowest they are prepared to accept and this figure is backed up by legal president.

Through negotiations with the Agent and Developer we have secured an increase commutated sum, which is now considered reasonable.

It is recommended that a further viability assessment will be required on reaching 50% sale completions.

An overage clause will also be required.

Development Delivery Project Manager - Andy Champion

I have now had chance to review the viability statement for development at Land and Buildings on The North Side of Fore Street, Exmouth, EX8 1HX by Bailey Venning Associates Limited (BVA), and associated documents including Lichfields Economic and Retail Statement, also Awcock Ward Partnership (AWP) Flood risk and technical note. I comment as follows:

1. Build cost for the commercial element. I need some commentary of how you've got to build cost please.

2. The abnormal Costs stipulated (see below) - Is there a Cost Consultants report to back these up or commentary at how these figures are arrived at? If not I will need to see a cost report with commentary.

- o demolition of the existing premises at £135,000
- o Party wall allowance at £2,500
- o Tree removal and protection at £15,000
- o Retaining walls at £87,775
- o Gas membrane £31,400
- o Capping layer and geotextile at £69,500
- o Sewer diversion and connections at £39,400
- o Stormwater SUDS, storage and pump at £30,000, and
- o Abnormal foundations at £152,300.

3. Please note that the CIL calculation for the retail / commercial units is wrong. All the commercial units within this planning application fall within the £0 CIL Retail Zone. So there will be no CIL charged for the above development.

4. Marketing fee of 4% is not within EDDC's normal acceptable parameters. As such, I need further commentary and justification as why it is this level (4%) and is costing £752,400. Is there a quote from the Letting Agent?

5. Clarification is needed with regards to developer's profit which is clearly stated in 8.44 as 20% of GDV. But on the Argus spread sheet it is shown as 0.00%?

6. Argus summary sheet seems to be showing Profit at 0. I need further commentary on this, as I may be misinterpreting the Argus spread sheet.

7. In the Argus summary sheet under sub heading of miscellaneous fees, Profit on Market, which is stated to be 20% and equating to £3,848,531. This doesn't appear to be a cost but appears to be profit on market sales thus you GDV? I need further commentary on this, as I may be misinterpreting the Argus spread sheet.

8. I also would like to see a sensitivity analysis of affordable units from 25%, 20%, 15%, 10% and 5%.

9. Also not included within the spread sheet is the requirement for NHS Gap Funding which equates to £23,380, which I believe is a s106 requirement.

10. I would suggest that you look at the developers profit at 20% to see if there is any movement by a small percentage. As It would appear that the profit in this scheme is in the region £3,848,531, with no proposal of affordable units.

I would be happy to speak with the Agent or with BVA accordingly over these matters further.

DCC Flood Risk Management Team (amended plans)

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observations:

Following my previous consultation response (FRM/ED/2120/2022; dated 21st October 2022), the applicant's consultant has provided additional information in relation to the surface water drainage aspects of the above planning application, via email, for which I am grateful. The applicant should submit the following information to the Local Planning Authority:

- Drainage Maintenance Plan

The applicant has provided a screenshot of the FEH catchment descriptors.

DCC Flood Risk Management Team

Recommendation:

At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

Observations:

The applicant has proposed to pump surface water drainage into the existing combined sewer. However, it seems as though the site could drain via gravity.

Above-ground features should be included within the site. Green roofs and living walls can help to regulate temperatures as well as provide opportunities for interception losses.

The greenfield runoff rates have been calculated using the FEH method. The applicant must submit a screenshot of the FEH web service to evidence the values used. Maintenance schedules are required. If possible, exceedance flows should remain within open spaces. The applicant should repair/upgrade the existing surface water pipework where necessary.

Economic Development Officer

Introduction

1.1 The application proposes the net loss of 1,422sqm Sui Generis employment space, currently utilised as a builders' merchants, located within the Exmouth Town Centre Shopping Area. In terms of employment, this site offers significant potential but currently accommodates just 10 jobs within the retail/warehousing sector. The applicant has stated that Jewson, the current occupant, are seeking to consolidate their Fore Street store operations to another site in Exmouth based on Withycombe Road, with the aforementioned 10 jobs relocating to that preferred store. The proposed development, a retirement living complex, is expected to retain a small element of employment space (178sqm) most likely for retail purposes, with 12 direct FTE jobs (or 16 direct workforce jobs) expected to be created in total.

1.2 The Economic Development team object to this application for four primary reasons, each of which are detailed within this response. To summarise, these four reasons are as follows:

1. Firstly, the proposed development will increase the attractiveness of East Devon as somewhere to retire, which will likely worsen East Devon's old age dependency ratio, thereby intensifying many of the negative demographic and economic trends we have witnessed locally.

2. Secondly, the site has not been marketed as a redevelopment opportunity, meaning a more economically beneficial town centre appropriate use could still be sought at this site.

3. Thirdly, although the proposed development is claimed to create 12 FTE jobs, this falls well below the number of jobs which this site could accommodate if it were being fully utilised under its existing permitted use. Consequently, it is the opinion of the Economic Development team that the proposed loss of this valuable employment site to retirement accommodation within a vibrant Town Centre Shopping Area would unquestionably harm business and employment opportunities, thereby contravening Strategy 32 of the East Devon Local Plan.

4. Lastly, as the applicant has not provided any evidence of marketing, this application appears to contravene Policy E9 of the Local Plan.

Economic Context

Employment Need

2.1 The need to retain existing permitted employment space across East Devon is becoming increasingly clear. Since the beginning of the current Local Plan period in 2013, East Devon has commendably met 97% of its housing target of 950 homes per year, including retirement housing. If the existing Local Plan Strategy 31 target (of 1 hectare of employment land for each 250 homes proposed) is applied to all homes built and all employment land delivered in East Devon, only 63% of this employment space target is currently being met. We have fallen significantly behind (37%) in the delivery of new employment space compared to new homes across our district. This is not sustainable from either a social or economic perspective.

2.2 The general lack of employment space in Exmouth has led to a significant amount of outward commuting to Exeter and the west end of the district. The Council's aim to encourage settlement self-containment could be promoted by encouraging the supply of additional employment space within Exmouth. The ability to promote settlement self-containment is greatly diminished when key town centre employment sites are lost to residential uses.

2.3 More recently, we have witnessed a growing reduction in the supply of available commercial units, particularly in the E(g) (offices), B2 (industrial) and B8 (storage and distribution) classes. We are also witnessing an increasing number of East Devon businesses who are having to leave the district in order to find available premises to grow. For example, two businesses which received innovation grant funding from the Council in the last two years had to postpone their project due to an inability to find suitable commercial premises. One business had to put their project on hold for almost a year due a lack of suitable retail space in Exmouth, whilst the other had to relocate out of East Devon altogether in order to find a suitable B2 unit. This lack of supply is having a negative and lasting impact on local employment and local supply chains. These issues have not been addressed in the applicant's application documents.

2.4 The need to protect our existing supply of employment space is therefore essential, given the worsening imbalance between the delivery of employment space lagging so far behind that of residential development (including retirement housing) throughout the current Local Plan period. If unchecked, this trend will inevitably result in East Devon residents having to travel further and further for employment opportunities, increasing outward commuting and carbon emissions whilst impeding efforts to encourage settlement self-containment and to tackle our worsening old age dependency ratio (detailed later in this response).

Allocated Sites

2.5 Sections 5.14 to 5.16 of the applicant's Planning Statement outlines a list of sites within Exmouth which are regarded as 'available' within the 2022 East Devon Employment Land Review (ELR). However, the ELR states that the term 'available' is "used in respect of the physical ability and likely suitability of a plot of land to accommodate future development" later stating that "this work, in respect of land availability, does not take into account the aspirations or expectations of the landowner or such issues as whether a vacant plot of land is being marketed or promoted for development". As a result, sites labelled as 'available' within the ELR should not be confused with sites which are actually available and being actively marketed by the owner/relevant agent for businesses/employers to lease or purchase. The supply of

truly available employment land and premises for B use employment, both in Exmouth and across the wider district is incredibly constrained at present and both local businesses seeking to grow as well as inward investment is being lost as a result.

2.6 Separate research undertaken by the Council has indicated that particular allocated sites labelled as 'available' within the ELR, such as Hayne lane in Honiton for example, are highly unlikely to be developed within the short or medium term. The ELR should therefore not be used to measure the supply of actively available employment space in East Devon, nor should it be used to justify the loss of existing employment space. Only sites and premises which are being actively marketed should be considered to be 'actively available' in a pragmatic sense.

2.7 Sections 5.17 and 5.18 of the applicant's Planning Statement refers to the employment allocation at Goodmores Farm to the far north of Exmouth. The applicant claims that this site should be able to accommodate the unmet demand for employment space in the town. However, the reference made to the Goodmores Farm site by a planning inspector was in relation to an appeal (19/2710/MFUL) at the Redgate site to the far east of Exmouth, in very close proximity to Liverton Business Park. We agree that the types of employment provision (B uses) that could have been delivered at the Redgate site could also be achieved at the Goodmores Farm site referred to by the planning inspector. However, the Goodmores Farm site will not be appropriate for accommodating the types of uses which would be relevant to a key employment site in a town centre setting. As a result, we do not believe there is comparability between the site of the proposed development and the Goodmores Farm site.

Economic Inactivity and Demographic Change

2.8 Employment provision not keeping pace with new housing delivery in East Devon throughout the current Local Plan period has had a disproportionate effect on younger residents, many of whom are compelled to leave the district to find adequate employment opportunities elsewhere. Evidence from the Onward think-tank shows that where 2.6% of UK undergraduates study in Devon, only 1.6% of UK under-30s with a degree live in Devon, implying a significant brain drain .

2.9 Compounding this loss of younger workers from the district is the dramatic increase we have seen in older, typically retired residents who depend on the working age population to provide vital services. ONS data shows that out of over 330 local authority areas, East Devon currently has the third highest proportion of retired people in the UK and the very highest proportion of residents of 90+ years of age . Although employment rates have been increasing in East Devon, this has been overshadowed by an increasing number of economically inactive residents (people neither in work nor actively searching for work). East Devon has one of the highest levels of economic inactivity in the country , a trend which is also, in part, due to the higher proportion of those in their 50s and 60s living in East Devon . These trends and their negative economic consequences have not been picked up in the applicant's application documents.

2.10 To be clear, this situation is worsening. In order to maintain a functioning local economy in decades to come, we are compelled to support the retention of valuable

employment sites across the district and help to ensure that each site is meeting its full potential. By replacing employment space with retirement housing, as this proposed development intends to achieve, we will be actively seeking to exacerbate the demographic and economic challenges faced locally. This proposed development will deny any future opportunities to encourage other town centre appropriate employment uses on this site. This in turn will deny employment opportunities to our younger residents, many of whom continue to seek higher value employment in their hometown but will ultimately be required to leave the district, worsening our economic resilience. Increasing the attractiveness of East Devon as somewhere to relocate and retire is also likely to put extra strain on local public services, such as healthcare for example.

2.11 Although the Economic and Retail Statement provided by the applicant does outline a number of economic benefits this proposed development could yield, it fails to address the specific localised economic challenges facing Exmouth and the wider district. We are of the view that the permanent loss of this valuable employment site to retirement accommodation within a vibrant Town Centre Shopping Area and adjacent to strong parking provision on Union Street will unquestionably harm the viability and detract from the diversity and future vitality of the town centre. As a result, it is of our professional opinion that this proposal will create more economic harm than benefit. As such, it should not be permitted in this location.

Local Plan Strategy 32

Interpretation of Strategy 32

3.1 Strategy 32 of the Local Plan outlines how applications resulting in the loss of employment uses are allowable under particular circumstances. The Strategy states that permission will not be granted for the change of use of current or allocated employment land and premises where it would harm business and employment opportunities in the area. How we define 'harm', 'business opportunity' or 'employment opportunity' must be logically defined on a case by case basis.

3.2 Paragraph 5.8 of the Planning Statement provided by the applicant suggests that the proposed development will not result in harm to business or employment opportunities in the area as the current occupier is seeking to relocate the 10 jobs currently accommodated at the site to another employment site in Exmouth. We do not concur with this interpretation of 'harm'.

3.3 When seeking to measure whether a proposed development will result in harm to business and employment opportunities, this should be measured comparative to the potential business and employment opportunities which the site could realistically yield, not the actual number of employees or businesses currently accommodated at the site by the current tenant. Sites must be judged according to their permitted use and scale, not the commercial decisions of the current occupier. Due to the inability of employment development to keep up with housing development and the inertia exhibited by many allocated employment, it is essential for the Council to protect existing employment sites and where possible to help ensure each existing employment site can meet its full potential. In the case of the Jewson site at Fore

Street, Exmouth, its full commercial and employment potential is not currently being met.

3.4 A guideline expectation of the number of employment opportunities which could be generated at this site can be calculated using the Employment Density Guide 2015. Although there is no general density figure provided for Sui Generis uses, it is our understanding that builders' merchants are also frequently classed as B8 uses by other LPAs. Where the B8 'final mile distribution centre' metric is applied, the Employment Density Guide 2015 would suggest that this site could accommodate around 23 jobs, almost double the 12 FTE projected to be directly created from the proposed development. However, the total number of jobs and businesses which could be accommodated at this site could be much higher if an alternative employment use is permitted at this site which is more appropriate to the site's town centre setting, such as a mixed use provision of offices, retail and affordable housing for young people.

3.5 If this application is approved and 'harm to employment opportunities' is defined according to the number of current jobs at a particular site, this will set a dangerous precedent for future applications. It will mean that owner-occupies of existing employment land could artificially reduce their employment to zero in order to seek permission to redevelop the site for housing, as there would be no harm to employment or business opportunities as the site currently accommodates no jobs or commercial operators. By ensuring that employment sites are judged against their potential capacity to host employment and commercial operations, rather than current levels of jobs and occupiers, we can more effectively protect East Devon's stock of employment land from an informed perspective.

Honiton Cattle Market

3.6 This application differs from that of the Honiton Cattle Market appeal decision (20/2410/MFUL) referred to by the applicant via email correspondence. It has been implied that the justifications leading to the Honiton appeal being granted are also relevant to this application, which we believe is not the case.

3.7 Firstly, whereas the Honiton Cattle Market Site had been vacant for some time, the Jewson site at Fore Street, Exmouth remains commercially operative despite the applicant's description of the site as 'brownfield'. Secondly, in the case of the Cattle Market, the appeal decision concluded that the proposed development would not cause harm to business or employment opportunities within the farming sector. Although Strategy 32 does not suggest that the harm to business and employment opportunities needs to be sector specific, cattle markets can typically only operate profitably as geographic monopolies - when there is no immediate local competition from another cattle market. Indeed, the establishment of new cattle markets has traditionally been spatially restricted via the issuance of licences, for this very reason. As an alternative replacement site for the Honiton Cattle Market had been permitted just outside of Honiton, the original/appellant site could not have realistically accommodated the return of any future viable cattle market due the nature of this unique commercial model. However, this type of commercial model is not applicable to builders' merchants, where healthy competition is required and encouraged at a local and national level.

3.8 As a result, the circumstances relating to the approval of the Honiton Cattle Market appeal decision are not applicable to the circumstances relating to this proposed development at Fore Street, Exmouth in terms of harm to business and employment opportunities. As mentioned earlier, the definitions of 'harm', 'business opportunity' and 'employment opportunity' should be determined on a case by case basis depending, as in this case, on differing market conditions for the existing types of permitted uses.

Additional Economic Benefits

3.9 We have reviewed the indirect and induced employment and business opportunities calculated and presented within the Economic and Retail Statement provided by the applicant. The additional £465,000 of forecasted discretionary spending would undoubtedly help to support town centre businesses and jobs in the retail and hospitality sector. However, discretionary spending could be higher still if a suitable alternative employment use were utilised at this site. For example, alternative employment uses at this site would be more likely to increase commercial spending between other local businesses, supporting local supply chains over the longer term. Employment uses, such as offices, will also generate town centre spending through lunch-time and pre/post commuting trade.

3.10 Recent research from Statista has shown that 'baby boomers', those currently between the ages of 62 and 82, on average spend less per visit in UK community shopping centres compared to the average individual across all generations. Those of working age, in the Gen X and Millennial age brackets, were found to spend more on average compared to those of retirement age. As a result, by proposing to develop the Jewson site to accommodate non-economically active residents, the commercial and employment opportunities to be gained will be minimised, especially as many retirement living provisions include 'in-house' services, such as hair and beauty for example, which will minimise the benefit to town centre providers. Instead, discretionary spending could be much higher if a mixed use site were to be developed at this site.

3.11 Alternative employment uses, combined in a suitable manner, are likely to unlock higher levels of GVA within the town centre compared to residential uses. With the applicant forecasting a total number of 12 jobs being accommodated at the proposed development, the £480,000 of GVA (gross value added) forecasted within the Economic and Retail Statement equates to a GVA of around £40,000 per employee. If the site were to reach its current employment potential of 23 jobs (see paragraph 3.4), this would equate to a total GVA of £920,000. The applicant has not provided any evidence to suggest that GVA per worker would be higher for the 12 jobs projected compared to the types of jobs currently permitted at this site. If a mixed use development could be brought forward at this site, including office and retail provisions, the total GVA to be unlocked would be considerably higher than that projected from the proposed development. A mixed use development would also yield similar economic benefits from a construction perspective.

3.12 As discussed earlier in this response, promoting additional residential facilities and services for those near or at retirement age will impede rather than improve efforts towards creating a 'resilient economy', as prioritised within East Devon District

Council's Council Plan. For our economy to be resilient, we must seek and permit development which allows for a healthy spread of different age brackets within particular settlements. An overdependence on retired and economically inactive individuals will not result in a resilient economy. We therefore believe that the impact this proposed development will have in exacerbating our local demographic challenges will far outweigh the minimised economic benefits outlined in this proposal over the longer term.

Alternative Uses

3.13 The applicant has not provided any evidence exploring whether there is demand for alternative employment uses at the site or whether such uses are viable or not. Our understanding from the Exmouth Town Centre and Seafront Masterplan (2011), which is due to be succeeded, is that a local preference was set to prioritise a variety of uses for the site, including office, retail, residential and potentially a hotel. However, the applicant has confirmed that the wider market has not had the opportunity to explore the viability of redeveloping this site for these alternative employment uses. No advertising or marketing of the site for redevelopment has taken place. Consequently, the applicant cannot claim that the proposed development will not harm business and employment opportunities when no other business or employer has had the opportunity to consider the site for redevelopment under its current permitted use or any alternative town centre appropriate use.

3.14 The re-emergence of demand for small scale office space since the Covid pandemic is a particular opportunity which should be explored. Our understanding is that a limited office development has previously existed at the site many years ago, with no evidence to suggest that a mixed use development of offices, retail space and affordable housing for younger people could not also be viable now. Indeed, the applicant's own submitted Economic & Retail Statement (Sept 2022) highlights the need for modern office accommodation in Exmouth with 14.3% or 1,000sqm of office space supply being lost (primarily to residential development) between 2001 and 2021. Retail space within Exmouth has fared better with only a 2.6% decline over the same period. If the provision of a mixed use development is evidenced to be unviable, we would prefer the exploration of other town centre employment uses on the site prior to the consideration of a significant retirement housing provision, such as the development proposed. As these alternative employment and commercial opportunities have not been explored, we cannot support the proposed development in its current form.

Marketing

3.15 As we are not content that the proposed development will create a sufficient number of business or employment opportunities compared to the site's current permitted potential, it is our opinion that this proposed development will harm net business and employment opportunities in the area. As a result, Strategy 32 requires the applicant to evidence that all options for retention of the site for its current or similar employment use have been fully explored without success for at least 12 months (or 24 months depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in the local area.

3.16 The applicant has confirmed via email (received on 21 December 2022) that "no marketing exercise has been undertaken". The applicant has also failed to evidence a surplus supply of actively available employment premises in the local area. As a result, this application does not appear to be compliant with Strategy 32 of the Local Plan.

Local Plan Policy E9

Interpretation of Policy E9

4.1 Policy E9, criterion 4, of the Local Plan outlines how permission for change of use to non-retail uses in town centres will not be permitted unless it can be clearly demonstrated that there is no longer a need for the current permitted uses and that the building or site has been marketed for at least 12 months (and up to two years depending on market conditions) at a realistic price without interest.

4.2 Section 5.37 of the Planning Statement submitted by the applicant claims that the requirements of criterion 4 could never be met, as the current occupant, Jewson, are intending to cease commercial operations at this site. We do not agree with this interpretation of Policy E9. As stated in paragraph 3.3 of this response statement, sites must be judged according to their permitted use and scale, not the commercial decisions of the current occupier. In addition, Policy E9 does not specify a particular type of individual or organisation who is required to undertake the marketing activity, only that that marketing activity takes place for the given time period. There is clearly no reason why this marketing activity could not have taken place, with marketing guidance published on the Council's website to assist applicants with this requirement. Consequently, this application does not appear to be compliant with Policy E9 of the Local Plan.

Conclusion

5.1 As this application does not appear to be compliant with the East Devon Local Plan, will evidently exacerbate our local demographic challenges and prevents the development of a more economically advantageous regeneration proposal coming forward, our recommendation is that this application is rejected.

Urban Designer

Introduction

Comments

Context analysis

The context analysis is helpful and the Urban Form Analysis document is welcome as it gives a focused understanding of the urban grain and movement networks around the site. It is good to see how the block pattern of the proposed development fits within its wider 'super-block' without prejudicing one possible way in which the block around it could develop but there is nothing to say how the proposal itself helps to enhance the urban grain beyond closing the gap in the elevation along Fore Street. The analysis is also silent about how the proposal relates to neighbouring buildings or Fore Street or whether there are more detailed design or massing information to be gleaned from this exercise that could be applied to the development in hand.

Conservation area and context beyond the block

The context analysis is silent about much of the area beyond the immediate block. The eastern end of Fore Street is not covered though the northern side of it falls within the 'super-block' of which the site is a part. It is also within the Conservation Area that neighbours the site and has a distinctly different appearance and character from anything covered by the analysis, with stone frontages and elevations set slightly back from the pavement edge. Bourden Barn Hill, which is outside the Conservation Area, continues on from Fore Street with older buildings, stone and cob walls with a more open, green urban grain with a softer, rural character reflecting the town's long history. This could help provide design clues for a proposal setting buildings within relatively open space.

Connections and desire lines

The analysis, though it looks at a possible future for the urban block in which this site sits, does not explore potential desire lines across the site and whether or not any development in this location could be designed to enhance the connectivity of the areas around it. Historically, this site has been a barrier to north/south movement and development might represent an opportunity to provide greater foot or cycle connectivity to and from the town centre. A connection from Albert Place to Fore Street may draw people from streets north of the block to the town centre, for instance.

Elevations around the site

Images from within the site of the elevations around it would help give a clear and immediate impression of what any proposal would be directly facing and responding to. This would show where existing buildings have windows looking onto or across the site, where and in what way a proposed design enhances or degrades views or daylight access. Similarly, it would be helpful to include a shadow-path diagram across the site as existing and with the proposed buildings.

Design response

Impact on Conservation Area

The photo-montage from the junction of Bourden Barn and Fore Street demonstrates that the proposal has an impact on views from this public part of the conservation area (i.e. not from within a private property). The Conservation Area is on relatively high ground and has good views out across Exmouth, the Exe Estuary to the hills behind Powderham and by Kenton. The proposal blocks this view from this location and as a result has a real impact on the character of this part of the Conservation Area.

Alternative arrangement on site

The DAS contrasts the proposed arrangement of buildings on the site with a number of alternatives though these are based on a single large building, rather than three separate ones, as in the proposed design. A potential alternative could be to place cottages on the Fore Street frontage alongside the commercial units, with the

apartment building behind and parking in the north east corner. This could be a solution that allows homes and commercial premises to open onto and relate to the street better and still allow the apartments to have level floor plates. This would bring smaller scale buildings to the street frontage, reduce the visual massing and allow views across the estuary from the Conservation Area to be retained. Clearly this would change the impact on houses to the north and east, but it would be a valid alternative to explore beyond the two options in the DAS. It may be that reducing the height of the building would be necessary to enable this to work, or to reduce the impact if it remains on the street front.

Apartments and commercial units

The main apartment building has an upper and lower ground floor where it steps by a storey height to account for the 3m fall along the Fore Street frontage. The flats on the lower-ground floor are connected to the upper by a flight of stairs and a lift and appear cut off from the remainder of the building, though in reality they are as connected to the communal area as the upper floors are. The elevation has areas that are set back which, combined with the stepping of the roof-line, makes this look less like a single building, though the photo-montage of the view from the west suggests that there should be greater architectural variety in the façade to make this successful.

The difference in levels between floor levels and the pavement edge mean much of the elevation is either above or below street level with retaining walls facing either the street or the elevation. This separates the building from the street and reinforces the feeling of it being a single building, undermining the design efforts put into the façade.

Nearly all buildings immediately around the site are two storey apart from Sandford Court, which has three but the building has a relatively low pitched roof and is aligned north / south and so has less impact on the street, and the building directly west on the triangle between Fore Street and Lower Fore Street which has a flat roof so reducing its overall height. The proposed apartment building is raised above street level towards the eastern end which exacerbates the impact, certainly when viewed from the east.

The dormers would be improved with pitched roofs as there is no precedent for flat roofed dormers in the original context of the buildings. There are recent examples of flat roofed dormers in surrounding streets which do a good job of demonstrating how bad they look and why pitched would be better.

The façade treatment of the commercial units is good and having small floor areas is also good as it makes them easier to fill, but units 2 and 3 are unlikely to gain much interest as they both open off the east elevation and onto a close-boarded fence. There is a discrepancy between the elevations and plans about the location of the entrance to unit 2 where an entrance direct to the street would be a distinct advantage, however, this does not help unit 3 which is stuck behind a 6 foot fence and relates to nothing. The design should change to ensure all commercial space opens directly onto the street to stand a reasonable chance of occupation. Unit 2 also benefits from a long thin rectangle of space that appears largely pointless. It might help to design this out.

There seems to be a lot of indecision about the ground floor of the south elevation where doors may or may not be, and when they do appear they have different designs depending on where you look. It is good to see the exploration of options, but it would be better to have settled on just one for this submission.

Another south facing living room window in the end apartments above the commercial units would help the appearance of the street elevation where there is a large expanse of unbroken brick at this western end.

Building Layout

The layout of the apartment is puzzling as the communal area is at one end of a long building where it could be placed in the middle, in this case the corner where the two wings meet. This would allow far easier access to the majority of residents where the current arrangement would discourage residents in much of the southern wing from using the communal facilities and therefore would discriminate against their ability to lead full, social lives. A corner location would provide a more vibrant street frontage by putting the main public entrance next to the street instead of the car park to the rear. As most residents are not expected to own cars this would benefit residents especially as sustainable travel, such as walking, should take design precedence. There is also no cycle parking, which would be good for staff as well as residents and should be provided in a secure and sheltered location. As there is only one lift the assumption is that the majority of the residents will be fit and active and therefore likely to be just as keen to use bicycles as anyone else as a mode of transport and maintaining good health and wellbeing.

Circulation in the apartments seems overly difficult for residents with only one lift for the whole building located half-way down the south wing where it can serve the lower ground floor but where it is particularly inconvenient to residents or visitors in the east wing. Again, a central communal area and building entrance would surely enable more central and accessible vertical circulation where a lift could be predicted to be fairly popular in a block of retirement apartments.

The cottages

The base of the stairs at ground level and top of the stairs at 1st appear to indicate a straight run that is under 3m long and is therefore not long enough to reach from floor to floor. This may be a mistake on my part as there is no section to verify against but on the face of it the cottages, as currently designed, do not work. Any change is likely to change the location of windows and doors so this should be addressed before going any further.

The original design of the cottages was better proportioned and more attractive but the revision has been made for good reason, responding to concerns for views and over-shading of neighbouring properties. This 1.5 storey scale of terraced dwellings has precedent in alms housing where many examples draw out dormers to form a gable to the front elevation. This would be helpful for these cottages as they need greater facade articulation and identity for each individual unit. The handing of doors and windows in the façade of each cottage would be better if consistent across all those in each block rather than as shown. False chimneys, perhaps as part of a

passive stack ventilation system, could break the roofline. The dormers would be better with pitched roofs as there is little good precedent for flat roofed dormers locally and these could then be used to form gables as mentioned above. Revising the internal layout to allow the stairs to work may also allow the dormer and door to line through which would also help make each unit more distinct.

External spaces

The design guide for retirement accommodation prepared by Housing LIN and Churchill states that outdoor recreation space should be high quality and where it is shared quantity is not as important as quality. The private outdoor spaces for the cottages are reasonably good. Those for flats 1 and 2 on the lower Fore Street frontage of the apartment building are shaded by the retaining wall as they are below street level, while the gardens on the north and west elevations, including the shared garden off the communal lounge, will be heavily over-shaded by the building itself.

Conclusion

The proposal makes a number of design moves to reduce its impact on surroundings, such as articulating the Fore Street façade and foreshortening the top floor on the south wing. The redesign of the cottages reduces their impact on the immediate neighbours to the east so should be commended for taking account of the comments at consultation from existing residents of the area. Unfortunately the floor plans do not appear to work and the design that has been presented needs more work to the elevations and roofline to work aesthetically.

However, the DAS does not illustrate an adequate exploration of ways buildings can be arranged on the site, especially as the alternatives tested are very crude and not representative of the final programme. This may be doing the design team a dis-service as alternative arrangements may have been tested and found wanting but they are not demonstrated here so the impression is that this exercise has not taken place. Alternative arrangements may help reduce the impact of the proposal on its surroundings, particularly where there are concerns about the massing on the Fore Street elevation and the change to views from the top of Fore Street where it meets Montpellier Road.

The commercial units are not convincing, particularly unit 3, which is unlikely to attract a tenant as it has no street frontage. Unit 2 has discrepancies between the plans, elevations and photo-montages that need to be cleared up before any decision is made. There is also the rectangular space opening off the back of it that just seems...odd.

Overall the impact of the apartment building on Fore Street and the views from the conservation area are cause for concern. This, along with the practical design issues that seem apparent in the buildings suggests that there needs to be further design work before the proposal is acceptable.

(1) Retirement Living Explained: A guide for Design and Planning Professionals (London, Housing LIN, 2017)

NHS Local (latest response)

see report under "document" tab

S106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a development to contribute towards the impact it creates on the services. The contribution in the amount of **£23,380** sought will go towards the gap in the funding created by each potential patient from this development.

NHS Local

The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon ICB as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that The East Devon District Council Local Plan 2013 to 2033 (adopted 28th January 2016) states that:

"16.33

The Council will consult with health and social care services on larger planning applications and/or those that could have service provision implications.

Education and Health

16.41

The District Council is not responsible for providing education or health care which are usually the responsibility of the Local Education Authority and the Local Health Authority respectively but financial contributions can be sought from developers where new development will place additional demand on their services. Health care and education will be integrated into large new developments at the planning stage.

16.45

In rural areas health care provision is far more difficult to access with irregular public transport and few, if any, local surgeries or other care....We will retain and continue to use East Devon Local Plan policies as a means to promote the development of new education and health care facilities whilst resisting the loss of existing facilities.

Partnership

19.8

The Council will work with partner organisations responsible for transport provision, education, health....provision of new infrastructure to match demands arising from future population changes and also to address current shortfalls."

The ICB's concern is that the combined surgeries of Imperial Surgery, Haldon House Surgery, Claremont Medical Practice and Rolle Medical Partnership are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 30,891 patients registered between

them and this new development will increase the local population by a further 131 persons.

Taking this into account and drawing upon the document "Devon Health Contributions Approach: GP Provision document" which was agreed by NHS England and Devon County Council, the following calculation has been made:

Methodology for Application 22/2120/MFUL

1. Residential development of 60 dwellings
2. This development is in the catchment of Imperial Surgery, Haldon House Surgery, Claremont Medical Practice and Rolle Medical Partnership which have a total capacity for 30,463 patients.
3. The current patient list size is 30,891 which is already over capacity by 429 patients or at 101% of capacity.
4. The increased population from this development = 131
 - a. No of dwellings x Average occupancy rate = population increase
 - b. $60 \times 2.19 = 131$
5. The new GP List size will be 31,022 which is over capacity by 560
 - a. Current GP patient list + Population increase = Expected patient list size
 - b. $30,891 + 131 = 31,022$ (560 over capacity)
 - c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6
6. Additional space required = 10.51m²
 - a. The expected m² per patient, for this size practice = 0.08m²
 - b. Population increase x space requirement per patient = total space (m²) required
 - c. $131 \times 0.08 = 10.51\text{m}^2$
7. Total contribution required = £33,638
 - a. Total space (m²) required x premises cost = final contribution calculation
 - b. $10.51\text{m}^2 \times £3,200 = £33,638$ (£561 per dwelling).

Could you please acknowledge NHS Devon's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future S106 Agreement with the Developers.

We would be grateful if you would contact Leenamari Aantaa-Collier at The Wilkes Partnership (Laantaa-collier@wilkes.co.uk;) who can assist your legal department in relation to the drafting of an adequate obligation which assures that the contribution delivers the mitigation requested.

NHS Royal Devon & Exeter NHS Foundation Trust

see report under "document" tab

NHS Local

see report under "document" tab

Police Architectural Liaison Officer - Kris Calderhead

Thank you for your consultation in relation to the amendments to this planning app. I have nothing further to add to my previous response submitted for your consideration.

Police Architectural Liaison Officer - Kris Calderhead

see report with images under "document" tab

Other Representations

Nineteen representations have been received in respect of the application, 13 raising objections, 5 making comments, and 2 in support, summarised below:

Objections

- Design out of character with that surrounding
- Scale should reflect the two storey buildings adjacent
- Dominant in streetscene
- Inadequate parking for the number of units
- Traffic congestion at entrance
- Potential highway safety issues
- The cottages are too large and too close to the properties in Montpellier Road
- Cottages should be removed to provide additional parking
- Cottages should be single storey
- Loss of light and air quality for neighbouring residents
- Question the need for commercial units in this location
- Negative impact on nearby conservation area
- Potential impact on bats
- Impact on trees
- Noise impact from construction works
- Overdevelopment of the site
- Impact on health services
- Development should not be age restricted
- Potential structural impact of development on adjoining properties

Representations

- Good quality housing development will be big visual improvement
- Additional accommodation for seniors will balance the extra housing for families
- No objection to the principle of the development

Support

- The existing operations on the site create noise and dust pollution
- Traffic generated by the current use is problematic
- Existing delivery lorries too large
- Damage to roads and pavements from large vehicles
- Existing business inappropriate in residential location
- Proposal reasonably spacious
- Likely to reduce existing traffic
- Development vast improvement on existing street scene
- Good use of a brown field site

PLANNING HISTORY

None relevant

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 7 (Development in the Countryside)

Strategy 5B (Sustainable Transport)

Strategy 22 (Development at Exmouth)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

E2 (Employment Generating Development in Built-up Areas)

E9 (Town Centre Vitality and Shopping Areas)

EN5 (Wildlife Habitats and Features)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Exmouth Neighbourhood Plan (Made)

EN1 Built-up Area Boundary

EN5 Surface Water

EN6 Sustainable Urban Drainage Systems

EB2 Design and Surrounding Building Styles

EE2 Employment Opportunities

EE3 Loss of Employment

H1 Accessible and Adaptable Homes

H2 Affordable Housing

Site Location and Description

The application site comprises a builders' merchants and yard area located adjacent to the east of the town centre in Exmouth. There are residential properties to the north

south and east of the site, with a public carpark at a lower level on the western boundary.

The site is an irregularly shaped piece of land extending to around 0.53 ha, which slopes generally from east to west, with an overall fall of around 6.5m. There is also a fall from north to south of around 3m, although the slope is not continuous, with large areas of level ground within the centre of the site. There are a number of buildings on the site used in association with the builders' merchants, including storage, sales and office accommodation.

The site is served by two vehicular accesses, both from Fore Street to the south of the site, although the easternmost access is not currently in use, with customer and delivery access being taken from that at the junction of Fore Street and Lower Fore Street.

A terrace of listed buildings lie adjacent to the north eastern boundary of the site, which are also within the Exmouth Conservation Area, whose boundary also extends to the part of the north eastern boundary of the site.

Proposed Development

Planning permission is sought for the demolition and clearance of the site and the construction of a mixed residential and commercial development. The main building comprises 54 retirement apartments together with 3 commercial units, with a further 6 cottage style dwellings proposed in the north eastern part of the site.

The apartment block has accommodation arranged over three floors, in an L shaped building having a main frontage onto Fore Street, and extending to the north. A landscaped area is proposed on the internal angle of the building, with the cottages having private amenity areas to the rear of these properties.

Access to the site is taken from the existing western entrance, with parking within a carpark located between the main apartment block and the cottages.

Consideration and Assessment

The main issues to be considered in the determination of this application relate to:

- The principle of the proposed development
- Design, scale, form and impact on the surrounding area
- Heritage impact
- Highways and parking
- Residential amenity
- Affordable housing and viability
- Flood risk and drainage
- Trees
- Ecological Impact
- Environmental Health
- Archaeology
- Planning obligations

- Planning balance and conclusion

ANALYSIS

Policy Context

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined. The Exmouth Neighbourhood Plan has been 'made' and carries full weight alongside the Local Plan.

Principle of Development

The application site lies within the built up area boundary for Exmouth, which is identified in Strategy 1 (Spatial Strategy for Development in East Devon) of the Local Plan as a focus for development. Paragraphs 6.6-6.9 set out the background to the Council's approach to employment land. It explains that the focal point for new growth, new employment land allocations (for B1, B2, and B8 uses) are focused in the West End. In the rest of the district (which includes Exmouth) as para 6.9 explains the Council will "take a broad view of the types of activity (retail, commercial, industrial, service sector, etc) that can be classed as 'employment' in making our land allocations". Although it is clear that the Council sees "future B1 employment development (office developments) and jobs in this class, as being key".

Strategy 6 encourages growth and development, including housing and employment uses within the Built-up Area Boundaries (BuAB)

Strategy 22 promotes new development within Exmouth including new homes, jobs, and retail and commercial facilities in the town centre. The application site is currently in use as a builders merchants providing 10 jobs.

In addition to Strategy 22, Strategy 32 relates to the loss of employment, retail and community sites and buildings, stating that "In order to ensure that local communities remain vibrant and viable and are able to meet the needs of residents we will resist the loss of employment, retail and community uses." It states that permission will not be granted where it would harm business and employment opportunities in the area subject to a number of criteria being met. One of which relates to the marketing of a site.

The site also lies within the identified town centre of Exmouth where Policy E9 (Town Centre Vitality and Shopping Areas) states that both retail and non-retail uses which would add variety and increase activity will be permitted subject to a number of criteria, again including the marketing of the site.

Policy EE3 Loss of Employment of the Exmouth Neighbourhood Plan states that applications for a change of use from an employment use to residential, leading to a reduction of employment will only be supported if the existing site is no longer

economically viable and the site has been marketed at a realistic price for a minimum of one year.

The possibility of redevelopment of the site for alternative business uses has not been actively pursued, as required by policy E9 (Town Centre Vitality and Shopping Areas) and the views of the Economic Development Officer in this respect are appreciated. However it is also considered that the redevelopment of this site for alternative employment and commercial uses would be problematical and that any intensification in the use of this particular site to generate additional employment will also have an impact on the wider environment. In this respect, whilst the position of the site, adjacent to the town centre would offer a convenient location for alternative uses, there are also considered to be a number of physical constraints to its redevelopment. The irregular shape and configuration of the site, restricted access, and the presence of surrounding residential properties on all boundaries are considered to severely limit the attractiveness of the site for alternative business uses.

The views of the Economic Development Officer in respect of the number of jobs which could be generated if the site were to be used to its full capacity under its existing permitted use are also noted. A builders merchants is generally regarded as being a sui generis use, although there is understood to be some debate as to whether it could be regarded as a B8 use, and on that basis it is suggested that significantly greater employment levels could be achieved within the existing buildings on the site, subject to any necessary planning permission. Any intensification in the use of the site would need to be balanced against wider amenity impact.

Concerns have been raised that the site has not been marketed as required by Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) and Policy E9 (Town Centre Vitality and Shopping Areas), however recent appeal decisions have specifically addressed this issue. In particular a similar proposal for the construction of a number of retirement apartments on a former cattle market site in Honiton. In considering the economic impact of the loss of the site, the Inspector considered that the loss or relocation of jobs from the site should not be the only consideration in assessing any harm to business or employment opportunities.

The Inspector also considered the suitability of redevelopment of the site for alternative business purposes, finding, as is the case here, an alternative more intensive business use on a site surrounded by residential properties would potentially lead to other highway safety and residential amenity impacts.

In conclusion on this issue the Inspector found that the proposed scheme would have no material effect on wider employment opportunities and land availability, and that as the development of the site would not harm business and employment opportunities in the area and would therefore not conflict with Local Plan Strategy 32. As such he found that there was consequently no need to go on to consider the exceptions contained within the policy, including the marketing of the site, because these exceptions are contingent on there being harm.

This application is accompanied by an Economic and Retail Statement which has explored the removal of the existing use of the site, and the retail and economic implications of the proposed redevelopment. This has considered the issue of the loss

of the existing retail unit on the economy of the town, the potential for an alternative retail use on the site and the contribution which the redevelopment and new commercial units on the site would produce.

It is considered that whilst the loss of the existing employment land would have an immediate impact in terms of direct employment on the site, and that ideally the site could be developed in a manner which would support greater employment, in planning terms the constraints of the site are such that it is not considered to be a suitable site for a more commercial use. The proposed use will result in employment in the proposed commercial units and generate new employment opportunities during the construction period, and due to the close proximity to the town centre result in additional resident expenditure in the locality.

The NPPF supports, at paragraph 86, the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Overall, and subject to the further consideration of the physical and technical issues, it is considered that the proposal is in general compliance with Local and Neighbourhood planning policies, and the provisions of the NPPF, and there is therefore no sustainable objection to the principle of the development.

Tilted Balance

At the present time the council cannot demonstrate a five year land supply. This means that the policies for the delivery of residential dwellings across the district are out of date. Although this does not mean that the policies of the Local Plan are irrelevant, it means that the tilted balance needs to be applied as per paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states that:

Plans and decisions should apply a presumption in favour of sustainable development.

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. 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.

The consequences of not having a 5 year housing land supply, means that the policies which are most important for determining the application are out of date and d) applies

such that planning permission for sustainable development should be granted, unless the provisions of *i. or ii.* apply. With respect to *i.* the site is not located in a protected area which would provide a clear reason for refusing permission, therefore *ii.* is engaged and the harm of the proposal must demonstrably outweigh the benefits of the proposal.

It is important to note that the fact that the site is currently in a wholly employment use cannot reasonably be a reason in itself to refuse planning permission and the main test in determining this application relates to whether the adverse impacts of granting planning permission for new residential development of the site would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Design, Scale, Form and Impact on the Surrounding Area

The nature of the proposed development is such that there are a number of constraints to the design, with requirements such as a single building, with level access throughout being a key feature.

The proposed design of the apartment building has sought to address the sloping nature of the site, and the terraced nature of the buildings on the opposite side of Fore Street. The roofs of the building step down as the street falls, with the frontage having a number of recessed areas with lower roof forms to visually break up the large building. It is also set slightly back from the pavement with planting and fencing to the roadside.

It is a large building which will be visually prominent in the street scene, although this side of Fore Street has three storey buildings to the east and west of the site. Within this context, the scale of the building is not found to be unreasonable. The variety of roof form, detailing and layout is such that it is not considered to be unacceptably dominant. The commercial units are further considered to make a positive contribution to the street scene and add visual interest at ground floor level when approaching from the town centre.

The design of the western elevation has been amended during the course of the application with the prominent gable roof elevation being hipped and further false window detailing breaking up the substantial area of brick work above the commercial units.

The application site abuts a conservation area in the north eastern corner, although there are no public views into it from this side. From the top of Fore Street there are public views from the conservation area down Fore Street, from which the new building fronting the road will be visible. It will present a more visible presence than the current buildings on the site, and will obscure some distant views beyond the Exe Estuary towards the hills on the other side of the river. Whilst this is acknowledged, it is not considered to have any significant impact on the conservation area itself. Views from the site and within Fore Street towards the conservation area at the top of road will not be impacted, and remain largely dominated by the existing flats at Sandford Court.

Whilst the scale of the frontage building is somewhat larger than existing development in the area, its design is such that it reflects the stepped terrace on the opposite side of the road. Additional detailing in the western elevation and amendments to the roof form, whilst retaining a statement presence, have removed the dominance of this structure. The fact that a building is larger than surrounding development does not, in itself make it unacceptable, and whilst it may be more visible, its position within the general street scene is not considered to be more dominant or visually intrusive than the existing building on the site.

Concerns raised by the Council's Urban Designer regarding discrepancies in the layout and elevational drawings have been addressed, and whilst the issues raised in respect of the design form and detailing are appreciated, these have been considered and peer reviewed and the conclusion reached that the overall impact of the development in the street scene would be acceptable, and that the proposal could not reasonably be refused on design grounds.

Subject to the use of appropriate materials, detailing and boundary treatment, all of which can be conditioned, the development is acceptable in this location and represents a significant improvement on the existing open storage area and functional flat roofed building that form the current street scene.

The location and scale of the cottages in the north eastern part of the site is such that there will be no streetscene or other public impact arising from their siting.

Heritage Impact

The National Planning Policy Framework (the Framework) at paragraph 199 indicates that great weight should be given to the heritage asset's conservation irrespective of the level of harm to its significance. Paragraph 202 indicates that the less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal.

There is a terrace of listed buildings located adjacent to the north eastern boundary for the site. No's 14-22 Montpellier Road comprise a terrace of Grade II C19 houses of 'unusual design' which back on the site. It is considered that the heritage interests of the buildings are best appreciated from Montpellier Road, and that beyond this, due to the existing built form and topography of the land their presence cannot be distinguished in the wider townscape.

There is some inter-visibility within the site of the rear of the listed terrace, although it is not considered that there are any features on this western elevation which have any significant architectural value. In addition, due to limited fenestration within these rear elevations, the site is not considered to make any positive contribution to the setting of the listed buildings.

Whilst the construction of the cottages will have some impact on the outlook from the windows on the rear of the listed buildings, altering from a builders merchants to a residential development, given the scale and position of the cottages and the limited number of windows on the rear elevation of the listed buildings, together with the

intervening new garden areas, it is not considered that the changes would have a negative impact or harm the setting of the listed buildings.

Some of the existing buildings within the former gas works are of some historic interest, an assessment of their significance finds that they could be identified as non-designated heritage assets of low local significance, but not of such significance that they should be retained. It is recommended that a historic building record should be undertaken prior to demolition. The submission of this could be secured by condition.

The site lies to the west of the Conservation Area, with the north eastern corner of the site on the boundary. There are limited views from the site into the conservation area whose boundary lies at the top of Fore Street. The building encloses the streetscene with the variations in roof form, elevational frontage, and materials providing visual interest. The cottages opposite the site are modest in scale and height, although the existing frontage building on the site, and flatted development to the east and building to the west are higher and more visible in the street scene.

It is considered to be appropriate to have the building fronting onto the road, with discrete parking to the rear. The concerns that have been expressed by the Conservation Officer about the scale of the proposal and its impact on the character of the conservation area are appreciated, however Officers have considered the overall scale and the lack of intervisibility between the site and the terrace of cottages forming the nearest element of the conservation area and are of the view that the overall impact would be such that it would not harm this heritage asset, particularly given the existing prominent flatted development between the site and the adjacent conservation area boundary.

Archaeology

The site lies on the edge of the historic core of Exmouth and in an area developed from the 19th century onwards. Its former use as the town's gasworks is of interest and a desk-based assessment has identified the presence of buried foundations associated with this and residential buildings. The site also contains historic buildings associated with gas works and the possible site of a WWII air raid shelter.

Whilst the development of the site is not precluded, a programme of heritage work to mitigate the development is required. This should investigate, record and analyse the heritage evidence that will otherwise be destroyed.

As a Written Scheme of Investigation has not been submitted as part of the application, a condition is proposed to ensure that an appropriate record is made of historic building fabric and archaeological evidence prior to development being commenced.

Overall it is considered that the existing development on the site does not make a positive contribution to the streetscene or the nearby conservation area, and whilst the proposal represents a change to the current situation it is not considered to cause any notable harm to the heritage assets, including the Listed Buildings in Montpellier Road, or Exmouth Conservation Area 3.

Highways and Parking

Access to the site is proposed to be taken from an existing, albeit unused, entrance adjacent to the south eastern corner of the site, with an internal car park providing 22 spaces for the residents in the main block and a further 6 spaces for occupiers of the cottages.

This level of parking provision is below that which would normally be provided for a development of this scale. The site is, however, on the edge of the town centre where there are a full range of transport options, and easily accessible parking options, in the form of two large town centre car parks. In such locations the Local Plan recognises at Policy TC9 (Parking Provision in New Development) that lower parking provision, or even no parking can be acceptable.

The site is also a reasonable and level walking distance to the centre of the town and the facilities and services available. It is considered to be a sustainable location to minimise the need for car ownership.

Retirement accommodation has been found to require less parking than general open market housing and it is considered that the level of provision of parking at 0.4 spaces per unit is appropriate given the sustainable location of the site.

Devon County Council, as Highway Authority, consider that the volumes of traffic are likely to be comparable with those currently visiting the builders' merchants. At the present time, given the nature of this use, it is understood that the majority of vehicles attracted to the site are trade vehicles, together with the heavy goods delivery vehicles. The residential use will remove many of these larger vehicles from the surrounding roads and the site being replaced by cars and smaller vehicles which is considered to be of benefit to the amenity of neighbouring residents.

It is not considered that any highway safety concerns would be raised by the servicing of the commercial units from the highway which is considered to be of sufficient width in this location to accommodate the low levels of traffic attracted to the site. The proposed alteration to the existing parking restrictions, to allow loading only between 08:00 and 10:00 is considered to be reasonable to remove any potential highway safety concerns.

The proposal is considered to be acceptable in terms of highway safety, and to provide an appropriate level of parking.

Residential Amenity

The application site has residential properties to all boundaries, although the orientation of the existing properties is such that the properties to the north have gable elevations abutting the site, and it is proposed to retain the walls of the existing buildings on the boundary to retain privacy and to reduce any impact on amenity.

The properties to the east of the site, in Montpellier Road have limited amenity space to the rear, and development in this location could have a negative impact on their outlook and privacy. Following concerns raised regarding the height of the cottages and position of windows on their rear elevations the design has been amended such

that the ridge height is lower and first floor accommodation on the east elevations of these properties is contained within the roof plane, with velux windows serving a study and bathroom. However given the lack of windows or other openings on the western elevations, the position is such that the separation distance between the existing and proposed properties, around 12m at the closest point between the conservatories and projecting rear offshoots, is considered to be acceptable in these circumstances in an urban setting.

The amenity of the proposed residents is also a relevant consideration. The proposed site would be largely dominated by the flats with the communal amenity area would be on the western side where a patio and grassed area is proposed accessed from the owners lounge. The design would result in an amenity area which would be generally sheltered and with proposed landscaping is considered to be reasonable. The cottages would have modest private gardens and a number of the ground floor apartments are provided with small external seating areas. Some of the first and second floor apartments also have balconies.

On balance, the level of amenity proposed is considered to be reasonable and that the acceptable and would comply with Policy D1 (Design and Local Distinctiveness) of the Local Plan

Affordable Housing and Viability

Paragraph 62 of the NPPF states that where there is an identified need for affordable housing, planning policies should specify the type of affordable housing required and expect to be met on-site unless;

- (a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
- (b) the agreed approach contributes to the objectives of creating mixed and balanced communities.

Strategy 34 of the Local Plan also requires that affordable housing is required to be provided on site unless exempted through government policy or guidance, if it is not mathematically possible or where off-site provision or equivalent value is justified by circumstances such as no registered provider being willing to manage the new affordable units or other planning reasons.

The Planning Statement claims that due to the nature of the development, it is difficult for an affordable housing provider to manage stock on site, notwithstanding the fact that the proposal includes 6 independent cottages, which could possibly have provided on site accommodation. With regard to the cottages it is stated that they will form part of the overall community, will have unrestricted access to all on site services and will be subject to service charges similar to the apartments. It is argued that on site contributions are not appropriate due to the large areas of communal space including shared lounges and significant service charges for maintenance and gardens. This has been found to be acceptable elsewhere, including on the previously mentioned

Cattle Market site in Honiton. As such it is proposed to offer an off-site contribution which is considered to be less satisfactory than rather than physically providing it on site.

The applicant has accepted that the development is liable for the provision of affordable housing. However it also submitted a viability appraisal suggesting that it could not afford to pay a policy compliant amount (which would be £693,540) but instead offering a total S106 payment of £32,770.

The viability submissions have been scrutinised by the Development Delivery Project Manager with various issues requiring additional explanation and further information. Following this a further Development Appraisal has been submitted and examined and total S106 offer of £195,000 being made. This would include the payment of £23,380 requested by the NHS, which is further discussed below. If the requested NHS payment is found not to be appropriate, the whole of the S106 monies would be a commuted sum for affordable housing.

This sum is considerably below that which would be policy compliant, however the viability of the site has been robustly examined, and it is recognised that there are various abnormal costs associated with redeveloping this site, particularly related to the site being a brownfield development and the former use as a gas works.

Exmouth is the highest area of housing need in East Devon and the supply of affordable housing is difficult, particularly on brownfield sites, and with retirement schemes where the viability is challenging. Whilst the revised figure is quite significantly below that to make it policy compliant, it will provide a contribution significantly higher than that originally suggested, and in this respect will make a positive contribution towards the provision of affordable housing in the town, which weighs in the planning balance.

It is, however recommended that a further viability assessment is required on reaching 50% sales completion.

An overage clause is also sought in respect of future profits and affordable housing provision in cases such as this where levels of affordable housing fall below policy targets.

Overall the proposal is considered to meet the affordable housing obligations required by the Local Plan as far as it is able to. Whilst the contribution fails to meet the Local Plan policy requirements it is accepted that this is all that can be achieved to make the development viable

Flood Risk and Drainage

The site lies in Flood Zone 1 and is therefore not considered to be at risk of flooding. Residential development is classified as a 'more vulnerable' use, but is directed to Flood Zone 1 in national guidance and as such the development is considered to be acceptable as a matter of principle.

Whilst DCC Flood Risk Team originally objected to the proposal on the basis that sufficient information had not been submitted in order to demonstrate that all aspects of the surface water drainage management plan had been considered.

As a result of this and following the submission of additional information and amended Drainage Maintenance Plan the objection has been withdrawn, subject to appropriate conditions.

South West Water raise no objection to the proposal

Subject to appropriate conditions and compliance with submitted drainage details the proposal is considered to be acceptable from a flood risk and drainage perspective.

Trees

The proposed development will result in the loss of a group of trees in the north eastern corner of the site. These have been assessed and have been found to be of generally low amenity value, and not of sufficient quality to require their retention. Other existing boundary trees are proposed to be retained, with further planting proposed within the site. Given the constraints of the site there is limited scope for extensive new planting, although it is considered that additional details and a detailed landscaping scheme as required by the Councils Arboricultural Officer should be conditioned.

On the basis of submitted details and further planting which will be secured by appropriate conditions, the development will comply the provisions of Policy D3 (Trees and Development Sites) of the Local Plan

Ecological Impact

The application site is accompanied by an Ecological Assessment prepared by a qualified Ecologist. Surveys of the site buildings did not record any evidence of roosting bats, with an emergence survey finding no bats, although low levels of common pipistrelle activity was observed within the site and adjacent habitats.

Nesting birds were recorded within the rafters of one of the site buildings.

No further Phase 2 surveys were considered necessary, and subject to the implementation of the proposed mitigation and enhancement strategy within the report it is considered that the overall ecological enhancement of the site through new planting of native trees, hedges, wildflower grassland and proposals would result in a net gain in biodiversity on the site.

On the basis of the submitted information and appropriate conditions the development would comply with the provisions of Policy EN5 (Wildlife Habitats and Features) of the Local Plan

Environmental Health

Subject to appropriate contaminated land investigation, and where appropriate remediation measures being undertaken, the proposed development is considered to be acceptable. These matters can be secured by condition.

A Construction and Environment Management Plan is required to ensure appropriate measures are undertaken to protect the amenities of neighbouring residents.

Habitats Regulation Assessment

The nature of this application and its location close to the Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations.

Despite the introduction of the Community Infrastructure Levy (CIL) where a proportion of CIL goes towards infrastructure to mitigate any impact upon habitats, contributions towards non-infrastructure mitigation are also required as developments that will impact on a protected habitat cannot proceed under an EU directive unless fully mitigated. Evidence shows that all new dwellings and tourist accommodation within 10 kilometres of the Exe Estuary and/or the Pebblebed Heaths Special Protection Areas (SPA's) will have a significant effect on protected habitats which is reflected in Strategy 47- Nature Conservation and Geology of the Local Plan. This proposal is within 10 km of the Exe Estuary and the Pebblebed Heaths and therefore attracts a habitat mitigation contribution towards non-infrastructure at a rate of £367.62 per dwelling which has been secured alongside this application.

On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Planning Obligations

A legal agreement will be required securing the following matters:

- Affordable Housing contribution of £171,620
- NHS contribution of £23,380

Health

The NHS clinical commissioning group (CCG) have request a contribution form the development towards the Trusts hospitals which are currently operating at nearly full

capacity, they consider that the development will produce additional residents that will increase demand for services. However, whilst it is appreciated that the proposed development would add to the number of people on roll it would not be the only development in the area that would affect numbers of people on roll or to have caused it to be oversubscribed in the first place. The appropriate funding stream for matters such as this is through the CIL process where the surgery would need to bid for funding once it has a project to enlarge the surgery in place.

However, the NHS have submitted a bid for gap funding for the RD&E which has been found to be acceptable by inspectors in the past and was agreed in principle by the Councils Strategic Planning Committee in 2021. The NHS do not provide funding for increase in population until dwellings have been occupied for 1 year, the gap funding, following a recognised methodology, of £1010 per dwelling. However in this instance the Trust is seeking a contribution of £23,380 to be used directly to provide additional services to meet demand on the RD&E for potential patients created by the proposed development, this will be secured through a legal agreement.

As things stand some caution must be expressed as to the weight given in respect of East Devon's previously agreed position with the RDUH Foundation Trust funding requests. This is because on the 13 February 2023, the High Court handed down a judgement on a legal challenge brought by the University Hospitals of Leicester NHS Trust in respect of a decision by Harborough District Council not to secure gap funding for health related services.

The Trust challenged this position and lost – principally on the grounds that it had not established that a gap existed. The judgement goes further and is clear in identifying that funding for “services” (which is different to an infrastructure project) could be viewed as a National issue. It recognises that as the CCG funding formula recognises at least in part projected population migration, it can be argued that people moving into an area are already considered within the health funding provision even if not at a local level.

Clearly more work needs to be undertaken within East Devon and between this Council and the RUH to understand the implications of this decision but as a material consideration in itself, it does act as a caution to the weight that should be given to East Devon's previously agreed approach. However as things stand Members have agreed to support these contributions subject to viability and so if Members are minded to approve this application they are requested to give delegated authority to the Assistant Director to delete the requirement for this contribution in the event that the referred to High Court decision means that it cannot reasonably be required.

Planning balance and conclusion

Having taken all of the previous comments into consideration, the NPPF requires Planning Authorities to apply a planning balance, where the social, environmental and economic factors of the scheme are attached relative weight with regard to the guidance of the NPPF and the up to date policies of the Development Plan.

The proposal would result in the loss of an employment site, close to the town centre, albeit that the site has a low employment value at the present time, and some new

employment will be generated by the proposed development. It will not allow the potential development of a higher value employment opportunity on the site, which weighs against the scheme.

In this scheme, significant weight is attached to the offer of an affordable housing contribution that will provide social sustainability benefits. Similar importance is attached to the potential 60 new homes where the 5 year housing land supply cannot be given full weight at this point in time.

The economic benefits of building, furnishing and living in 60 new homes and the filter down effect this would have on the local and regional economy weigh in favour of the proposal.

The development would be accessible by a range of transport means to Exmouth's varied amenities and facilities without the need to resort to the private car, together with transport links to further afield settlements and there are no objections from the County Highway Authority. This also weighs in favour of the proposal.

The proposal is not considered to have a material impact on the residential amenity of neighbouring residents, and whilst concerns have been raised regarding the scale of the development and impact on the streetscene and character of the area, these are not considered to carry sufficient weight as to make the development unacceptable.

Ecological impacts are considered to be fully mitigated ensuring compliance with planning policy and the Habitat Regulations.

The development is outside of the floodplain with a site that can be drained by sustainable means.

The proposals offer an appropriate package of mitigating measures to offset the impact that the new housing would have on local infrastructure through payment of CIL and a contribution to the NHS.

It is considered that there are social and economic benefits to the development, including the contribution to affordable housing, open market housing and the improvement in the amenity of local residents arising from the loss of the nuisance associated with the builders' merchants, and that these should be given significant weight, having particular regard to the tilted balance in favour of sustainable housing development that must be applied. This is balanced against the loss of an employment site, and potential future employment site, adjacent to the town centre.

Overall, on balance, the proposals are considered to represent sustainable development in the light of the guidance in the National Planning Policy Framework and the up to date policies of the Development Plan.

RECOMMENDATION

APPROVE subject to a Section 106 Obligation to secure the heads of terms listed above and subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. A Construction and Environment Management Plan (CEMP) must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Any equipment, plant, process or procedure provided or undertaken in pursuance of this development shall be operated and retained in compliance with the approved CEMP. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site and no high frequency audible reversing alarms used on the site.
(Reason: A pre-commencement condition is required to ensure that the details are agreed before the start of works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.
4. Site Investigation and Remediation:
No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 1. A preliminary risk assessment which has identified:
 - o all previous uses
 - o potential contaminants associated with those uses
 - o a conceptual model of the site indicating sources, pathways and receptors
 - o potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

(Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure any contaminated land is mitigated at the outset of development.)

5. Piling:

Piling or deep investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

(Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.)

6. Unsuspected Contamination:

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

(Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.)

7. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above. (Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG).

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

8. No development shall take place until the developer has secured the implementation of a programme of (i) historic building recording and (ii) archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'
(Reason - To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of historic building fabric and archaeological evidence that may be affected by the development.
This needs to be a pre-commencement condition to ensure the land is not disturbed in advance of the recording)
8. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority.
(Reason - To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.)
9. The specific noise level of any fixed plant or equipment installed and operated on the site must be designed as part of a sound mitigation scheme, which has previously been submitted to and approved in writing by the local planning authority, to operate at a level of 5dB below daytime (07:00 - 23:00 expressed as LA90 (1hr)) and night-time (23:00 - 07:00 expressed as LA90 (15min)) background sound levels when measured or predicted at the boundary of any noise sensitive property. Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'.
(Reason: To protect the amenity of local residents from noise and in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)
10. The applicant must ensure that sound insulation works are carried out in all commercial units in order to ensure that noise (including low frequency noise)

generated within the units does not disturb the occupiers of the associated residential premises.

(Reason: To protect the amenities of local residents from noise and in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031)

11. Landscaping

Notwithstanding the submitted details no development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, (including species, size, tree pit details, appropriate soil volume, grilles, guards, mulching, staking, guying and watering arrangements), hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

12. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

13. The development hereby approved shall be undertaken in accordance with the recommendations and mitigation measures detailed in the Arboricultural Assessment and Method Statement prepared by Barrell Tree Consultancy and dated 25 August 2022.

(Reason - To ensure retention and protection of trees on the site prior to and during construction in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

14. The development hereby approved shall be undertaken in accordance with the recommendations and mitigation measures detailed in the Ecological Assessment prepared by Tyler Grange and dated 8 September 2022.

(Reason - In the interests of ecology in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan.

15. No development shall take place above foundation level until details of secure cycle/buggy storage facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the units to which they relate, and shall be retained and maintained for that use in perpetuity.

(Reason: To promote sustainable travel to in accordance with Policy TC9 - Parking Provision in New Development of the Adopted East Devon Local Plan 2013-2031 and the guidance contained in the National Planning Policy Framework.)

16. Refuse Storage

No development shall take place above foundation level until details of arrangements for the storage of refuse for the commercial units have been submitted to and approved in writing by the Local Planning Authority. The approved refuse storage facilities shall be made available before any of the approved units are occupied and retained thereafter.

(Reason - To ensure that early consideration is given to the provision of adequate refuse provision for the occupiers of the commercial units in the interest of health and hygiene in accordance with Policies D1- Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)

Statement on Human Rights and Equalities Issues

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

JBA22-239-SK03 : landscape strategy masterplan	Landscaping	26.09.22
10119EM-PA- LOC	Location Plan	23.09.22
10119EM-PA03 : upper ground	Proposed Floor Plans	23.09.22
10119EM-PA04 : first	Proposed Floor Plans	23.09.22
10119EM-PA08 : sheet 2	Proposed Elevation	23.09.22
10119EM-PA09 : sheet 3	Proposed Elevation	23.09.22
10119EM-PA11 : cottage development	Proposed Plans Combined	23.09.22
landscaping details	Landscaping	23.09.22
10119EM-PA01 A	Proposed Site Plan	02.03.23
10119EM-PA07 Rev A: Sheet 1	Proposed Elevation	24.02.23
10119EM-PA10 Rev A : Sheet 4	Proposed Elevation	24.02.23
10119EM-PA02 A : lower ground	Proposed Floor Plans	02.03.23
10119EM – PA12	Site Sections	

10119EM – PA06 Roof Plan

10119EM – PA05 Second Floor Plan

List of Background Papers

Application file, consultations and policy documents referred to in the report.