

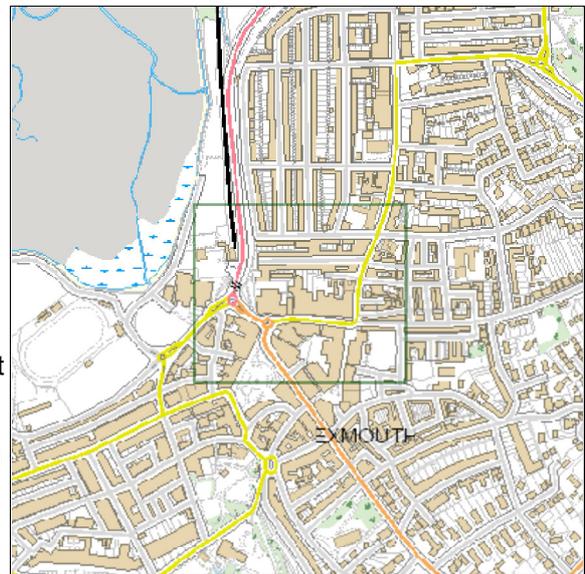
Ward Exmouth Town

Reference 18/0524/MFUL

Applicant Sentry Capital

Location Land To Rear Of 33-35 New Street Exmouth

Proposal Re-development to provide mixed development comprising of 3 no. B1 units (office) and 17 no. residential apartments, of which 35% is to be affordable with associated amenity and parking facilities and new vehicular access



RECOMMENDATION: Refusal



		Committee Date: 12th February 2019
Exmouth Town (EXMOUTH)	18/0524/MFUL	Target Date: 06.07.2018
Applicant:	Sentry Capital	
Location:	Land To Rear Of 33-35 New Street	
Proposal:	Re-development to provide mixed development comprising of 3 no. B1 units (office) and 17 no. residential apartments, of which 35% is to be affordable with associated amenity and parking facilities and new vehicular access	

RECOMMENDATION: REFUSE

EXECUTIVE SUMMARY

This application is before Members as the officer view is contrary to the view of a Ward Member.

The application is within the built-up area boundary of Exmouth close to the town centre in an area designated as flood zones 2 and 3. There are a mix of residential and commercial properties bounding the site.

The proposal would allow for the redevelopment of a site which has been vacant for a number of years since the previous employment premises were demolished. It is proposed to provide employment premises and car parking on the ground floor with 17 no. apartments over a further 3 floors split into two main blocks – 35% of the proposed apartments would be for affordable occupation.

Only in exceptional circumstances should residential development be permitted in areas at high risk of flooding especially when there are areas available in less vulnerable areas in the district. It has been suggested by the applicant's agent that a reduced area of sequential test should be considered given the considerable need for social and affordable rented units in Exmouth. However, in this instance given the layout of the affordable units, significant amount of smaller units recently approved and the fact that interest in the site from Registered providers is for shared ownership units that would not meet the social and affordable rented need, it is considered that a reduced sequential test area has not been justified. There is considered to be sufficient land available in the district to meet the housing provided in the application without developing in areas of high flood vulnerability.

Matters of residential amenity, design and layout, highway safety and drainage have all been found to be acceptable subject to appropriate safeguarding conditions.

However, notwithstanding that there are no objections to the above, and the proposal is providing an affordable housing percentage in excess of the Local Plan requirement of 25%, development in an area of high flood vulnerability is considered to outweigh the benefits of the scheme and therefore the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Exmouth Town - Cllr E Wragg

I am requesting that the above application be put before DMC to decide whether or not the Exception Test may be applied as a departure from policy, i.e. whether or not the benefits to the community outweighs the flood risk. I would like to hear all the arguments for and against.

Parish/Town Council

Meeting 23.07.18

No Objection

Further comments:

No Objection to the bat survey submitted but continued to object to the proposal as before.

Further comments:

Please could it be noted that Exmouth Town Council had no objection to the amended plans for 18/0524/MFUL, Land to the rear of 33-35 New Street.

Technical Consultations

Contaminated Land Officer

I have considered the phase 1 geotechnical report prepared by Campbell Reith dated March 2018. The report identifies that this land is underlain by made ground with potential hotspots of imported material, possibly as a result of its former use as a site for a joinery. I therefore agree with the consultant that a full contaminated land assessment is required, and recommend that standard condition CT3 is included on any approval.

Recommend : standard condition CT3

Environment Agency

Thank you for your consultation of 09 April 2018 in respect of the above planning application.

Environment Agency position

We object to the application as submitted because it has not been demonstrated that the second part of the exception test will be satisfied, particularly the requirement for development to be safe over its lifetime. Your Authority will also first need to be satisfied with regard to the flood risk sequential test.

The reason for our position along with advice regarding the sequential and exception tests is set out below.

Reason - Flood risk assessment

The site is located within the high probability Flood Zone 3. Whilst we can broadly agree with the conclusions of the flood risk assessment (FRA) prepared by Campbell Reith (ref. 12792, dated March 2018), we consider there are a number of issues where further consideration is required, including consultation with local authority emergency planners.

The FRA should consider the elevation of the development site in relation to the surrounding topography. It would be appropriate to ensure that the site cannot act as a bowl into which water from the surrounding landscape would drain. We would not object to minor raising of the site to ensure that it is elevated above surrounding levels. The FRA recommends a level of 4.7mAOD at first floor level for the 'more vulnerable' residential element of the proposal. This level is necessary to ensure sufficient freeboard above the flood level over the lifetime of development. However, it is not clear from the submitted plans that the FRA's recommended level will be achieved.

It is noted that occupants of the 'less vulnerable' elements of the development at ground floor level will not benefit from safe refuge, with unfettered access, on a higher floor. All surrounding land is at a similar level and safe access/egress is unlikely to be available if evacuation was required during flooding. It would be appropriate for a 'flood evacuation plan' to be produced to assess the acceptability of safe access/egress. This should be considered by your emergency planning team.

The primary source of flooding to the site would be from tidal impacts and there should be a suitable lead time to provide flood warnings to occupants of the development. However, a catastrophic failure of tidal flood defences would lead to a rapid inundation of the site with water depths of up to several metres. This would reinforce the need for safe on-site refuge for all occupants of the development.

Advice - Flood risk sequential and exception tests

Because the site is located within Flood Zone 3 the Sequential Test must be applied in accordance with the National Planning Policy Framework (NPPF) paragraphs 100-102. The aim of the test is to steer new development to land with the lowest probability of flooding (i.e. Flood Zone 1). Your Authority will need consider the Sequential Test and conclude whether there are any other sites for the development or whether there are any overriding reasons for the development of this site. Further guidance is set out in the Planning Practice Guidance (<http://planningguidance.communities.gov.uk/blog/guidance/flood-risk-and-coastal-change/> - see 11, 12, 13 and 14).

If you are content that the Sequential Test can be satisfied, consistent with wider sustainability objectives, the Exception Test would then need to be applied and passed. Your Authority will need to consider the first part in respect of whether the development offers any wider sustainability benefits that outweigh flood risk. We (along with emergency planners) can advise you on the second part which requires the submission of a satisfactory FRA to demonstrate that the development will be safe over its lifetime. The NPPF is explicit that both parts of the exception test must be passed for development to be permitted.

Further comments:

Thank you for your reconsultation of 11 July 2018 following our original objection.

Environment Agency position

We have no objection to the proposed development as submitted.

Reason

We have reviewed Appendix C of the report prepared by ARA Architecture (File 7641, dated 09 July 2018). This usefully addresses the points of concern raised in the Environment Agency's previous response. In particular, it clarifies that safe unfettered access to a first floor level will be available for occupants of the development.

Advice to LPA - access / egress

Paragraph 7-038 of the Planning Practice Guidance (PPG) and paragraph 103 of the NPPF are clear that access and egress needs to be part of the consideration of whether new development will be safe. Paragraph Reference ID: 7-039-20140306 of the PPG provides further guidance.

If you are minded to approve the application on the basis that other material considerations outweigh the flood risk, you may wish to consult internally with your Emergency Planners to determine their views on safe refuge as an alternative to safe access and egress. They will need to confirm that they can incorporate the additional occupants into their emergency evacuation plans.

South West Water

I refer to the above application and would advise that South West Water have no objection subject to surface water being managed in accordance with the submitted drainage strategy i.e. attenuated to 2l/s before being discharged to the public sewer.

As noted in the application details public sewers pass through the site and no buildings/structures or alterations to ground covers will be permitted within 3 metres of them.

Further comments:

I refer to the above application and would advise that South West Water has no further comments to those already given.

Housing Strategy Officer Melissa Wall

Consultee response:

This site lies within the development boundary for Exmouth and therefore under strategy 34 should provide 25% affordable housing. The applicant is proposing to provide 35% (6 units) affordable housing, which is above the policy requirement.

The development comprises 17 flats of which 6 are to be affordable. The affordable units are not marked on the plans provided and this should be clarified. The need in the district is predominately for smaller units either 1 or 2 bedrooms which the proposal will meet. In accordance with strategy 34 we would expect to see a tenure mix of 70% for rent and 30% for shared ownership or a similar intermediate product as defined in NPPF. However we do have our reservations about this development and whether a registered provider would be willing to take on the units in a mixed tenure and mixed use block. In some circumstances this can be resolved through design by having a separate entrance or a separate block for the affordable units. In this instance the business use on the ground floor may also be an issue with some affordable housing providers. Early conversations with registered providers is advisable and we can help with this.

Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. If this is not possible due to a lack of interest from providers as a result of the design/proposal we can advise of alternative forms of affordable housing which would be acceptable. All affordable homes should be constructed to Building Regulations M4(2) or the relevant standards at the time of determination. A nomination agreement should be in place that enables the Local Authority or a preferred Register Provider to nominate individuals from the Common Housing Register, preference going to those with a local connection to Exmouth, then cascading to East Devon.

Further comments:

As part of the amendments to this application the affordable housing statement has been updated and the proposal is now to provide 6 x 1 bedroom flats. The affordable units have not been identified on the plans. The greatest need is for 1 and 2 bedroom units so the proposal will meet the need however that is for rented properties. As mentioned in my previous comments we do have our concerns about a mixed tenure block and whether an affordable housing provider would be interested. We understand that an affordable housing provider has been approached and shown an interest which is promising however this provider specialises in shared ownership housing and under policy 70% should be available for rent as this is where the greatest need arises. If the units were to be all shared ownership 1 bedroom shared ownership flats are renowned for being hard to sell and re-sell.

With this application it may be necessary to have a flexible S106 agreement in place which secures the level of affordable housing proposed (or policy compliant at a minimum) and that the tenure and units will be agreed with the Council. With mixed tenure blocks of flats it is often the case that a commuted sum is secured because of the difficulties in finding a provider. The applicant is very keen on delivering on-site affordable units and whilst we are fully supportive we need to be mindful of the challenges and be flexible in the tenure. The design on the building with five units

being access from a separate staircase may help address concerns with tenures being mixed but would reduce the provision.

County Highway Authority

Observations

This application has undergone previous applications, the site sits with a residential area with a proposed vehicular site access off New Street L3607 and a pedestrian access to the south.

The County Highway Authority is pleased to see the latest version of this plan includes dedicated cycle parking for each dwelling. A vehicular access is still envisaged through New street, which will require contribution to a revised Traffic Regulation order to move the existing loading bay either to the west or east of this proposed access.

Environmental Health

Before the development commences a scheme for the provision of internal sound insulation, to include party walls, floors and ceilings, shall be submitted to and approved in writing by the Local Planning Authority and the agreed scheme shall be completed prior to the commencement of the use hereby permitted.

Reason : To protect adjoining occupiers from excessive noise.

A Construction and Environment Management Plan 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. 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. There shall be 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.

DCC Flood Risk SuDS Consultation

At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy EN22 (Surface Run-Off Implications of New Development) of the East Devon Local Plan (2013-2031). The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant should provide detailed information and a plan/drawing showing how the 58 m3 of attenuation will fit into the proposed layout of the development. Various options have been put forward for example bioretention systems, porous pavements are indicated via text in the Drainage Strategy Plan (12792 CRH X1 XX SK C P1) but none of these are illustrated on the plan. For a full planning application we require more detail at this stage on the type of attenuation device/devices which will be used.

The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

It should be noted that Devon County Council's policy is to attenuate up to the 1 in 100 year plus 40% climate change at the site, not just up to the 1 in 30 year event, in relation to Section 4.2.6 of the Drainage Strategy Report dated March 2018.

We are happy to provide further comments once additional information has been submitted.

Other Representations

Thirteen letters of objection have been received, in which the following concerns are:

- Access off New Street is inadequate.
- How lorries will access the site during construction.
- Not the right site for affordable housing.
- Not enough car parking.
- Flooding/drainage.
- Overdevelopment.
- Out of Character.
- Increased traffic.
- Noise.
- Where will refuse be stored?
- Overlooking.
- Pedestrian safety.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 22 (Development at Exmouth)

Strategy 34 (District Wide Affordable Housing Provision Targets)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications 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 2018)

NPPG (National Planning Practice Guidance)

ANALYSIS

Relevant Planning History

- 07/0630/MFUL - Erection of 5 No 1 bedroom apartments and 6 No 2 bedroom apartments in 2 detached blocks with associated parking, gardens, access and stores - Refused 02/05/07.
- 08/1266/FUL - Redevelopment to provide mixed development comprising 3 B1 Units (office) and eight one and two bedroom flats - Refused 07/07/08.
- 08/3108/FUL - Redevelopment to provide mixed development comprising 3 B1 Units (office) and 6 one and two bedroom flats - Approved 10/07/09.
- 12/0890/FUL - Redevelopment to provide mixed development comprising 3 B1 Units (office) and 6 one and two bedroom flats (renewal of planning permission 08/3108/FUL) - Approved 14/06/12.

Site Location and Description

The site is situated to the south of New Street in Exmouth and, currently, can be accessed from either New Street, Shepherds Row or Parade. There are houses adjoining the site to the north and west. To the south, the site is mainly adjoined by the rear of commercial properties in Parade. The land is largely open to the east of the site, with a number of walls dividing the various plots in this area mainly used for car parking.

The site is within the built-up area of Exmouth. It is also within flood zones 2 and 3. There are no other designations relevant to the site or the surrounding area/properties.

Proposed Development

Planning permission is sought for the erection of a building which will comprise a mixed development of 3 B1 units, 17 apartments and associated amenity space and parking as well as a new access. 35% of the residential accommodation would be affordable.

The building is a mix of single, one, two and three-storey elements with car parking for 10 cars (1 each of the business units and 7 spaces for the 17 apartments).

Materials are a mix of brick, boarding and standing seam roof.

Consideration and Assessment

The main considerations in the determination of this application relate to the following matters:

- Principle of the proposed development
- Loss of an employment use
- Design and layout
- Impact on neighbouring amenity
- Ecology
- Habitats regulation assessment
- Impact on highway safety
- Planning obligations
- Drainage
- Other matters

Principle of Development

The site lies within the Built-up Area Boundary (BuAB) of Exmouth. The spatial strategy for the District requires significant housing to take place within these boundaries, with the seven main towns (of which Exmouth is one) forming focal points for development. In addition, Strategy 22 requires moderate new housing development to take place within Exmouth, in addition to the stated allocations.

Strategy 34 of the Local Plan requires 25% of housing within Exmouth to be affordable, with a mix of 70% social or affordable rent and 30% intermediate or other affordable housing.

The site lies within flood zones 2 and 3 as defined by the Environment Agency's mapping system and is therefore at high risk of flooding. In accordance with guidance in the National Planning Policy Framework (NPPF) development should be directed to areas with a lower risk of flooding (flood zone 1) unless it can be demonstrated, through a sequential test, that there are no other suitable sites in flood zone 1. It is usual practice to set the areas of search for the sequential test as the whole of East Devon's administrative area and clearly there would be a number of sites available in flood zone 1 to accommodate 17 no. apartments, however, as indicated in the following text from the National Planning Practice Guidance (NPPG), the area of search can be reduced where there is an overriding need to certain developments.

'For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in

those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.

When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. For nationally or regionally important infrastructure the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary.

Any development proposal should take into account the likelihood of flooding from other sources, as well as from rivers and the sea. The sequential approach to locating development in areas at lower flood risk should be applied to all sources of flooding, including development in an area which has critical drainage problems, as notified to the local planning authority by the Environment Agency, and where the proposed location of the development would increase flood risk elsewhere'.

In this instance it has been suggested that the need for 1 and 2 bedroom properties in Exmouth is an important consideration and one that should be taken into account when determining the area of search for a sequential test. The figures below (taken from Devon Home Choice) indicate the current level of need in Exmouth, this is where the greatest need is in the district.

1-bedroom – 274

2-bedroom - 122

In terms of delivery, there are three large scale sites/proposals that could bring forward the majority of housing development in Exmouth: Plumb Park, Goodmores Farm and Pankhurst Industrial Estate (the subject of another application on the Committee Agenda). Plumb Park is providing 43 one and two-bed affordable homes, Goodmores 18 and Pankhurst 25. In addition to this, these developments will provide a number of one and two-bed open market units. This will probably equate to over 100 of the 400 unit need identified in the figures above. In addition, there will be windfall sites that come forward and provide 1 and 2-bed units. It is not expected however that the current demand will be met in full in Exmouth in the short-term.

Given the high demand for one and two bedroom properties, the question to be asked is whether this is a level of need that can justify a reduced area of search for a sequential test.

As the NPPG states that an area of search can be reduced for cases where there is an affordable housing need, it is considered that in principle a reduced area of search to the area around Exmouth could be appropriate.

The sequential test that has been undertaken by the applicant's agent considers 18 sites within the built up area boundary of Exmouth that could accommodate some or all of the proposed development. The Council has no reason to dispute any of the reasons for discounting the sites considered and recognises that it is difficult to find large housing development sites within or at the edge of Exmouth.

The question now is whether the proposal will meet the identified need that justifies a reduced sequential test area.

Given concerns raised by Housing regarding the attractiveness to Registered Providers of units above B1 units and the fact that the 6 affordable units cannot be located together for ease of management (5 could be located off a separate access but the 6th units would be communal with the other flats), and given that there are concerns that the location within a flood zone may not be attractive to Registered Providers due to the management and insurance implications, the applicant was asked to provide evidence that Registered Providers would be willing to take these units on.

The agent has therefore contacted registered affordable housing providers to ascertain whether they are likely to take on affordable units in a mixed block with open market units in this location. The response provided has been that whilst 1 provider would take on the units (Heylo), they are only interested in doing so on a shared ownership basis. In discussion with the Council's Housing Officers it clear that the need for shared ownership is difficult to capture and there certainly is not such a need as for rented. In any case, the proposal will not address the affordable and social rented need that could justify a reduced sequential test area.

It is also relevant to note that the letter from Heylo simply expresses their potential interest stating that it is subject to a full schedule of accommodation and ensuring that the model aligns with their specific requirements. This leaves some considerable doubt on whether they would be willing to take the units on in their current form. It is suggested that more certainty should be required if such units are to be granted within a flood zone.

It is therefore considered that the proposal is very unlikely to meet the high social and affordable rented need in Exmouth (there can be no guarantee that the open market units will not be sold on the open market rather than being rented). As such, there is no justification for a reduced sequential test area as the proposal is unlikely to meet the social and rented need that would justify the reduced search area.

The need for 1 and 2-bed social and affordable rented units in Exmouth needs addressing and this is something that will need to be tackled through the Greater Exeter Strategic Plan and the local plan review because even if some units within a flood zone are can be justified, this will not meet the current needs.

As such it is considered that the principle of development would be unacceptable as there is sufficient land in flood zone 1 in the district to provide for the units proposed and that the reduced sequential test area has not be justified by addressing the social and affordable rented needs, even taking into account that the proposal is providing 35% rather than the policy compliant 25% affordable housing.

Loss of an employment use

The National Planning Policy Framework (NPPF) puts great emphasis on planning decisions promoting an effective use of land in meeting the need for homes and other uses. Paragraph 118 requires that planning decisions give substantial weight to the value of using suitable brownfield land within settlements for homes and other

identified needs and to promote and support the development of under-utilised land and buildings.

Paragraph 121 requires that LPA's take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would meet identified development needs. In particular LPA's should support proposals which use retail and employment land for homes in areas of high demand provided this would not undermine key economic sectors or sites or the vitality and viability of town centres.

Equally, the NPPF places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The Local Plan sets out a vision for the whole District that seeks to ensure housing and jobs will be delivered together. Points 1 and 2 of Strategy 22 (Development at Exmouth) seeks moderate new housing provision and significant new employment provision in the town. Point 4 seeks to promote social and community facilities to serve the needs of residents.

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) of the Local Plan states:

'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. This will include facilities such as buildings and spaces used by or for job generating uses and community and social gathering purposes, such as pubs, shops and Post Offices.

Permission will not be granted for the change of use of current or allocated employment land and premises or social or community facilities, where it would harm social or community gathering and/or business and employment opportunities in the area, unless:

1. Continued use (or new use on a specifically allocated site) would significantly harm the quality of a locality whether through traffic, amenity, environmental or other associated problems; or

Comment: The proposal is to provide some B1 office space for local small businesses on the ground floor of the building, the former use of the site was for a B2 use, the number of people employed previously compared to the proposed are comparable albeit under a reduced footprint. It isn't considered that a continued use of the site for employment purposes would give rise to any significant concerns regarding traffic, amenity or environmental problems.

2. The new use would safeguard a listed building where current uses are detrimental to it and where it would otherwise not be afforded protection; or

Comment: The building is not listed.

3. Options for retention of the site or premises for its current or similar use have been fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in a locality; or

Comment: The site has not be marketed for employment generating uses, however, as continued employment generating uses are proposed this element of the policy is not relevant in this instance.

Accordingly, the proposal should not be seen as the loss of employment land but the re-use for B1 purposes which is the largest area of employment need in the district. The proposal is therefore considered to comply with Strategy 32 of the EDDC Local Plan.

Design and Layout

The building is designed to have two 'sections', with the northern most one being 2 stories high and the southern one being three stories high, with the third floor set in from the edge of the main building. There would be a single storey element between the two 'sections'. The ground floor would be occupied by three B1 units as well as car parking, cycle storage, communal areas, and all other floors would be residential accommodation. Vehicle access would be from the north, through an underpass, off New Street, with pedestrian access also possible off Parade.

There is no one dominant design character in the area, with terraced properties mainly occupying the area to the north and west of the site, and larger commercial properties on Parade to the south. Beyond the properties to the west, there are some smaller commercial buildings, and the land to the east of the site is predominately the rear areas associated with the commercial uses on Parade. Consequently, it is considered that, whilst the proposed building would be larger than the dwellings in the area, it would not be significantly larger or more bulky than the commercial units near-by. Therefore, it is not possible to argue that the proposed building would be out of character with the area, particularly as it is set back from the street frontages.

The proposed materials would not match in particular any of those used in the surrounding area. However, it is considered that this does not raise any concerns. It is though considered reasonable to seek further details of the materials through condition, in order to ensure that they are suitable and not detrimental to the area.

Given the above, it is considered that the design and appearance of the proposed development is acceptable.

Impact on neighbouring amenity

The proposed building would be higher than all the residential properties surrounding the site, and would be closest to those west of the site, known as 4 and 5 Palace Cottages. Concerns were raised to the original plans that the proposed building would be situated very close to those properties and, consequently, would be overbearing to the occupiers; in particular, this was with regard to number 5, which would have had a very large section of building immediately adjoining its garden. As a consequence of

these concerns, the plans were amended to move the nearest part of the building to number 5 away from the boundary, and also to inset the whole of the third floor. It is considered that this amendment was sufficient to overcome the concerns about the proposal being overbearing, and it is considered that there are no other elements of the building which would be overbearing to the occupiers of other properties

There are a number of windows above ground floor level which face toward neighbouring properties. However, the plans show that the key openings to living rooms and bed rooms would be fitted with high level windows. This is with particular reference to the windows on the western elevation facing towards 4 and 5 Palace Cottages, and also those facing north towards New Street. There would also be openings, within the northern part of the proposed building, facing toward 6 Palace Cottages. However, these would be directly adjacent to the number 6, which has no openings on its side elevation.

There are also a number of 'false' balconies proposed on the northern and eastern elevations of the building. If these were used as balconies, it is considered that they would lead to a loss of amenity to the occupiers of 4 and 6 Palace Cottages, as well as properties in New Street. However, no doors onto these areas are shown and, given the concerns about amenity loss of these areas were used as a balcony, it is considered reasonable to impose a condition preventing the installation of doors onto these areas.

Given the above comments, it is considered that, on balance, the proposal can be undertaken without resulting in a loss of amenity to the occupiers of neighbouring properties.

Ecology

A protected species report was submitted with the application. That document concludes that the site offers a low potential in terms of its ecological significance and that few, if any, protected species were observed on the site. Furthermore, the report indicates that the site offers little or no potential for protected species to reside there. It is, therefore, considered that the proposal is acceptable in this regard.

Habitats Regulation Assessment and Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and/or Pebblebed Heaths 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. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working 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.

Highways and car parking

Limited car parking would be provided within the proposed development, and some concerns relating to this have been raised by neighbours, as parking on near-by roads is challenging for existing residents of the area. Those concerns are noted. However, the site is located close to Exmouth town centre, has near-by access to both buses and trains, and there are public car parks in the vicinity. Given that, it is noted that Policy TC9 (Parking Provision in New Development) makes allowances for proposals in such locations to provide limited parking, when it states:

"In town centres, where there is access to public car parks and/or on-street parking, lower levels of parking and, in exceptional circumstances, where there are also very good public transport links, car parking spaces may not be deemed necessary".

Given this, and as both trains and buses are very frequent in Exmouth, as well as taking into account a number of public car parks in the vicinity of the site, it is considered that, even if no car parking were proposed, the development would be acceptable in terms of Policy TC9.

In terms of highway impact, the County Highway Authority (CHA) has assessed the proposal and not raised any objections. However, they have commented that the current loading bay in front of the proposed site entrance would need to be removed. If necessary this can be dealt with by condition.

Affordable Housing and Planning Obligations

The proposal is for 17 flats, of which 35% would be affordable. The policy position is that, within Exmouth, 25% is the requirement. The applicant will therefore enter into a Section 106 agreement to provide the aforementioned units of affordable housing on site. This approach has been considered acceptable by the Housing Enabling Officer. The offer of a proposal in excess of the Local Plan requirement has been submitted to off-set the harm from the location of the site within a flood zone.

The new market housing would also be liable under the Community Infrastructure Levy, to make contributions towards infrastructure including education, off-site Exe Estuary and Pebblebeds Heath mitigation, open space, and strategic transport infrastructure.

Drainage

A surface water drainage strategy was submitted with the application which has been reviewed by Devon County Flood Risk team and has been found to be inadequate as no plans had been submitted to demonstrate the attenuation scheme could be accommodated on site. Amended plans in the form of a sequential test were submitted

which contained sections to indicate how the attenuation measures could be put in place. Devon County Flood Risk team have not commented on the revised details, however, it is considered that the details provide sufficient comfort to impose a suitably worded condition for a detailed scheme to be submitted prior to commencement of development.

The proposal is therefore considered to be acceptable in relation to Policy EN22 of the EDDC Local Plan.

Other matters raised

It is noteworthy that there is an area for the storage of refuse containers within the development. Also, as the site is located in the town centre, where noise arises by virtue of other surrounding land uses, it is considered that the proposal would not result in an unacceptable level of noise. However, to ensure that this is the case, it is notable that the Council's Environmental Health Department has recommended that that a condition relating to sound proofing and also a Construction and Environmental Management Plan (CEMP) are imposed. These conditions are considered to be reasonable, and will be imposed in the event that this application is approved. Such conditions would ensure that noise issues are suitably dealt with.

CONCLUSION

The application is within the built-up area boundary of Exmouth close to the town centre in an area designated as flood zones 2 and 3. There are a mix of residential and commercial properties bounding the site and the proposal would allow for the redevelopment of a site which has been vacant for a number of years since the previous employment premises were demolished.

Residential development should only be granted in flood zones in exceptional circumstances. Whilst an exception circumstance could be the need to provide a specific type of affordable housing in an area, this application does not provide enough evidence to justify a reduced sequential test area. Whilst there is a high need for 1 and 2-bed social and affordable rented accommodation in Exmouth, and the application proposes 35% affordable housing in an area where the policy requirement is 25%, evidence submitted with the application does not demonstrate that the 35% affordable housing would address the rented need that could justify a reduced sequential test area. There are also other concerns regarding whether a Registered Provider would be interested in taking on units in this development due to the layout and location within a flood zone.

In the absence of a justification for a reduced sequential test area, and given that there is considered to be sufficient land available in the district to meet the housing provided in the application without developing in areas of high flood vulnerability, the proposal does not pass the Sequential Test and is unacceptable in principle.

Matters of residential amenity, design and layout, highway safety and drainage have all been found to be acceptable subject to appropriate safeguarding conditions.

However, notwithstanding that there are no objections to the above, and the proposal is providing an affordable housing percentage in excess of the Local Plan requirement of 25%, development in an area of high flood vulnerability is considered to outweigh the benefits of the scheme and therefore the application is recommended for refusal.

RECOMMENDATION

REFUSE for the following reason:

The Environment Agency Flood Map indicates that the site lies in flood zones 2 and 3 where there is a high risk of flooding .The application fails to justify a reduced area for the sequential test and there are other reasonably available sites within the district of East Devon with a lower probability of flooding which would be appropriate for the type of 'more vulnerable' residential development (as either open market or affordable). In the absence of a district wide sequential test showing there are no alternative sites for housing there is a lack of evidence that the proposal would bring about wider sustainability benefits for the community that would outweigh the flood risks for the buildings and potential occupiers over the lifetime of the buildings. The proposals are contrary to guidance within the National Planning Policy Framework and National Planning Policy Guidance and Policy EN21 (River and Coastal Flooding) of the Emerging East Devon Local Plan.

Plans relating to this application:

7641-LP-A	Location Plan	03.04.18
7641-112 REV D (AMENDED)	Proposed Floor Plans	12.10.18
7641-111 REV B : (AMENDED)	Proposed Floor Plans	12.10.18
7641-117 REV C (AMENDED)	Sections	12.10.18
7641-113 REV C : 3RD FLOOR+ROOF (AMENDED)	Proposed Combined Plans	12.10.18
7641-114 REV C : E+W (AMENDED)	Proposed Elevation	12.10.18
7641-115 REV C (AMENDED)	Combined Plans	12.10.18
7641-116 REV C (AMENDED)	Proposed Elevation	12.10.18

List of Background Papers

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