

**Committee Date:**  
**19.03.2010**

EXMOUTH LITTLEHAM  
(Exmouth)

09/2192/MFUL

Target Date: 11.02.2010

Applicant:

Mr G Turton

Location:

14 Cyprus Road, Exmouth

Proposal:

Demolition of existing redundant student accommodation and construction of 40 bed residential care home

### **UPDATE REPORT**

Members will recall that this application was considered first by Development Management on 12 January, followed by the Planning Inspections Committee on 22 January. The resolution of that meeting was as follows -

**RESOLVED:** that the application be DEFERRED for negotiations with the applicant to achieve:

- i) A reduction in the bulk and mass of the proposal and in particular in relation to Kempstone House, 12B and 12C Cyprus Road whilst maintaining the overall design.
- ii) The inclusion of 5 parking spaces.
- iii) The inclusion of offset 'museum' windows along the northern and southern boundaries.
- iv) Details of the Boundary treatment in relation to Kempstone House to be agreed.

Amended plans were received on the 11 February 2010 which have been the subject of a reconsultaiton exercise with neighbours, Ward members, Town Council and the Highway Authority. Comments received are set out below in relation to the amended plans.

#### **The principal changes in the plans are as follows**

- Part of the first and second floors nearest to 12c Cyprus Road have been reduced in length by 3.5 metres (ground floor layout has been maintained as original)
- Whole building has been moved 74cms to the east (nearer to Cyprus Road)
- Canopy on front of building nearest Kempstone House has been extended
- Additional 5 extra parking spaces arranged in a herringbone alongside wall to Cyprus Road together with a waiting/passing place near these five spaces

- Museum style windows and frosted glass to bedrooms facing 12c and 12 b Cyprus Road
- Corner window facing 12c omitted
- Improved boundary fencing and planting to Kempstone House boundary

The applicant's agent supporting letter which accompanied the amended plans is appended to this update report.

For completeness the original Committee report and the plans for consideration at that time have been appended to this update report.

### **CONSULTATIONS - AMENDED PLANS**

#### County Highway Authority

No objections to amended plans subject to the two conditions suggested previously

### **TOWN COUNCIL**

OBJECTION on the following grounds: -

- outside the recommendations of the Design Statement for the Avenues and East Devon Local Plan guidance.
- footprint of the building is 53% but should be no more than 25%.
- would affect the amenities of neighbouring properties.
- no provision made for two contaminated waste bins.
- inadequate parking provision.
- the bulk of the rear of the building has not been reduced.

### **WARD MEMBER(S)**

The further comments of the Ward Member(s) are –

Cllr T Wood:

I write on behalf of the three ward members for Littleham.

On the evidence before us we oppose the application because we believe it does not have proper regard for the supplementary planning guidance contained in the Avenues design statement. In relation to that statement, we believe that the proposed development remains a substantial overdevelopment of the site and that, although the design has some merit, it is not in accord with the principles set out in the statement. We were extremely disappointed that at the previous meeting of the Inspection Committee, no member of the committee referred to the Design Statement at all and the officers' guidance to the committee paid scant regard to the guidance in the design statement.

The committee did however recognise that the proposed building had a major adverse impact on neighbouring properties and requested the developer to put forward modifications to reduce that impact. In our view the developer has reduced the problems identified by the Inspections Committee. In particular, the reduction of the height by two floors at the rear significantly reduces the impact and overlooking of the bungalow to the rear. To a modest degree, it also reduces the adverse impact of the new development on Mr. Tribble's home. The museum windows and the frosted windows also reduce the overlooking of Mr. Tribble's home although it is not clear whether all the museum windows are best oriented to reduce the overlooking of Mr. Tribble's home.

As regards Kempston House, it is difficult to understand how the modifications will provide a significant improvement either in overlooking or in the overbearing nature of the large three/four storey building close beside the modest one storey residential home.

The extra parking is welcomed even though it increases the ground coverage of the site.

Overall, as ward members, we welcome the changes that have been made to the proposed development but as stated at the beginning of these comments we still believe that this application has an excessive impact on the site and falls well outside the guidelines of the Avenues design statement. We therefore still remain opposed to it.

## **REPRESENTATIONS**

### **Objections**

4 letters have been received raising the following points:

- Reiterates earlier objections made previously
- Application is still contrary to Policy D1 and Avenues Design Statement
- Council should refuse in line with these policy statements
- Building moved towards road increases dominance
- West Team's initial recommendation to refuse should not have been overturned
- Refers to appeal decision on 10c Douglas Avenue which underlined inappropriateness of design
- SAD maintain their objections to this application - the changes do nothing to ensure the proposal complies with policy D1 of the Local Plan.
- Applicant has not done as requested by Committee to remove 4-5 metres off rear projection on all floors

## **CONSIDERATIONS AND ASSESSMENT**

It is clear from the objections received above that the amended plans have not in the opinion of those objectors overcome their earlier concerns. With reference to the earlier report the following comments are made

### **Principle of Development**

Members considered that the principle of the development was acceptable taking into consideration all relevant material planning policies including those included in the Avenues Design Statement.

The principle issues therefore remain as

- size, scale, height, massing,
- design and impact on the character of the area
- impact on residential amenities
- highway impact

In addition some further comments are added regarding policies particularly those set out in the EDDC Local Plan and the Avenues Design Statement (ADS). In terms of the weight to be attached to the ADS it is clear that it has been adopted as part of a suite of documents which need to be taken into consideration by the LPA when deciding any planning application that falls into this part of Exmouth. All Planning policy documents have to be balanced against other material planning considerations. The ADS cannot be completely prescriptive for all development proposals. The ADS sets out general principles which developers and the LPA should consider when dealing with applications. However if those principles are not fully adhered to it still needs to be fully demonstrated as to the harm that would arise if planning permission were granted. It is not enough to refuse any application on the grounds that it simply does not comply with a particular policy document. This slavish adherence to policy will not be supported by the planning inspectorate in the event of an appeal. The ADS is relatively silent on the potential for new contemporary design development in the Avenues. This cannot restrict the LPA from approving a new building of contemporary design.

#### Size, Scale, Height and Massing

Given Members have asked for an increase in the number of parking spaces it must be noted that the overall site coverage has now increased to about 53%. The footprint of the building remains at 32% compared to advice set out in the ADS which sets a figure of 25% site coverage.

Members were satisfied at the Planning Inspection Committee as to the site coverage and fully recognised that to increase parking would inevitably increase the overall site coverage of hard surfaced areas. Nevertheless it is considered that the site layout plan now submitted still shows a reasonable area for new planting and soft landscaping thereby preserving the general principle to ensure that any new building respects the proportion of building to open areas. The building sits within the northern section of the site and still retains sufficient space to landscape the boundaries and the rest of the site so that the development will not appear as an overdevelopment.

Given the degree of undeveloped space within the site and the characteristics of this particular site the development is considered satisfactory notwithstanding it does not comply with the ADS.

#### Design and Impact on the Character of the Area

In general terms the Committee have already considered matters of design. Members have taken the view the design put forward is appropriate for this site. Members have taken into consideration the way in which this development presents a contemporary approach based on the principles of the better quality developments in the area. Members are also aware of the principles set out in the ADS and considered previously

that the design was appropriate in the setting of this part of the Avenues. Members are also aware of the more traditional approach taken on the opposite side of the road in relation to the Haseldene site. The changes to the building set out by the latest amended plans do not dilute the quality of the design or its approach to the site. In this respect the proposal is still considered to be acceptable in design terms. Policy D1 of the local plan talks about development being locally distinctive. In this respect the applicant has sufficiently demonstrated that the building is distinctive and does pick up on local design themes. The fact that it is not a pastiche of developments of the Victorian or Edwardian era should not count against it and become a reason for refusal. In line with all areas of character and conservation value the Avenues does exhibit a range of building styles and eras and to that extent it is important that it also represents quality development from the 21 century.

### Impact on Residential Amenity

Members were rightly concerned at the potential impact of the new development on adjoining residents including the special care needs of residents of Kempston House. Notwithstanding the fact that the earlier proposal was considered acceptable in terms of neighbour impact, Members considered that some adjustments still needed to be made to reduce further any detrimental impact on neighbours. Members were able to see for themselves this impact by visiting those properties which adjoin the application site.

The applicant's agent has now amended the plans to reduce the impact on those neighbours still further. By reducing the size and bulk of the building considerably this has had a beneficial effect on those neighbours. In addition further museum style windows and frosted glass coupled with an extension of the canopy on the southern elevation all help to reduce any detrimental impact on neighbours. Clearly neighbouring properties are still very concerned for the reasons set out above and below. The impact on neighbours has been satisfactorily assessed both in Committee and on site. The further changes are welcomed and help to make the development more acceptable.

### Highway Impact

The Highway Authority have confirmed their acceptance to the amended plans. Members are reminded that there are no sustainable reasons to refuse this application notwithstanding the concerns of local residents. Members were able to satisfy themselves on site that the access was acceptable and that with a few extra parking spaces the development was considered appropriate in highway safety terms.

### Landscaping

The landscaping of the site will be subject to standard landscaping conditions requiring full details of the number of plants and trees to be planted. It is not considered necessary for a full landscape specification to be submitted at this stage. What is clear from the amended site plan submitted is that there is ample room for additional soft landscaping. Members will be aware of the degree of landscaping to the northern boundary which is outside the application site and which will be maintained. To ensure a quality landscaping scheme is submitted and in addition a plan for future maintenance is agreed additional conditions have been added below. Conditions also cover the protection of those trees to be retained.

## Other considerations

In response to concerns raised by objectors regarding the precedent that would be set by an approval on this site, Members will be familiar with the need to assess each application on its individual merits. Whilst they may decide to approve a contemporary style building on this site it does not follow that this decision would set a precedent to be followed in all future redevelopment sites in this area. Neither does it follow that one decision recently dismissed on appeal in the case of 10c Douglas Avenue sets the framework for all future decisions. The details of that particular decision have been appended to this report together with the reasons for refusal and the Inspector's decision letter. Members will be able to see from the plans submitted that the quality of the proposal was significantly inferior to the development now proposed at the Cyprus Road site. There were very strong reasons why that development was considered unacceptable predominantly in design terms. The Inspector fully supported those design considerations.

## **CONCLUSIONS**

The proposal is considered to be in line with Policy D1 of the East Devon Local Plan and the Avenues Design Statement for the following reasons. The main themes to arise during consideration of the application were the principle of the proposed development, the size and scale of the replacement building, the design and impact on the character of the area, the potential impact on neighbouring residential amenity, parking and access and landscaping. The development on balance in relation to the size of the replacement building would not prejudice the open and spacious character of the area nor lead to an overly dominant building when viewed from public vantage points. The contemporary form and overall character of the building in relation to the area, is considered to be of sufficient quality and picks up important defining characteristics of the area.

The development is considered to accord with Policy D1 of the East Devon Local Plan in terms of its relationship with neighbouring residents. In particular the size and height of the proposed building would have the potential to detract from amenity. A careful consideration of the potential overbearance, overlooking and loss of light for neighbours concluded that on balance the development would not significantly harm existing levels of amenity. Although the building would impact to some extent, the effects would not be so significant that an objection could be substantiated in planning terms.

The issue of parking was also raised but the on-site provision complies with both national and local planning policies. There is no reason to consider the application as an exceptional case as the proposed use would be commensurate with the existing uses in the area. Off-road parking is available close to the site if necessary and the use of this would not prejudice highway safety. The development is therefore in accord with Policies TA7 and TA9 of the East Devon Local Plan.

The application includes generous landscaping proposals which include new planting to curtilage boundaries. This would help to soften the impact of the new building were permission to be granted and also reflect the mature gardens which are typical of the Avenues area in line with the aspirations of Policy D1 and the Avenues Design Statement.

The amended plans are in line with Members' aspirations and subject to the conditions laid out below make the development is considered to be acceptable.

## **RECOMMENDATION**

APPROVE 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. Before development 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.)
3. Before any other operations are commenced, the amended site access and visibility splays shall be constructed, laid out and maintained for that purpose in complete accordance with the application drawings.  
(Reason - To provide a satisfactory access to the site with adequate facilities for short term parking.)
4. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities and turning area have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.  
(Reason - To ensure that adequate facilities are available for the traffic attracted to the site).
5. Before any development commences details of final finished floor levels and finished ground levels in relation to a fixed datum 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 adequate details of levels are available in the interest of the character and appearance of the locality.)
6. No development shall take place until a hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, 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 otherwise agreed in writing by the Local Planning Authority and 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 - In the interests of amenity and to preserve and enhance the character and appearance of the area.)

7. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in National Joint Utilities Group (NJUG) Publication Number 10 1995.
- (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area.)

8. Full details of the method of construction of hard surfaces in the vicinity of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any works on site (including demolition). The method shall adhere to the principles embodied in BS 5837 and AAIS Arboricultural Practice Note 1 (1996) and involvement of an arboricultural consultant and engineer is recommended. The development shall be carried out strictly in accordance with the agreed details.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area.)

9. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place. The proposals shall be carried out as approved for the full duration of the plan.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area.)

10. Before the development hereby permitted is brought into use, the car and motor bike parking spaces, together with the cycle stand, shall be provided in accordance with the submitted site plan and thereafter maintained.

(Reason - In the interests of providing sufficient parking and sustainability.)

## Reasons for Approval

1. The proposal complies with the Devon Structure Plan 2001-2016 policies ST1 (Sustainable Development), ST5 (Development Priority 2001 to 2016), ST15 (Area Centres), CO6 (Quality of New Development), CO15 (Air Quality), CO16 (Noise Pollution), TR4 (Parking Strategy, Standards and Proposals), TR5 (Hierarchy of Modes), TR10 (Strategic Road Network).
2. The proposal complies with the adopted East Devon Local Plan 1995-2011 policies S4 (Development Within Built-up Area Boundaries), D1 (Design and Local Distinctiveness), D2 (Sustainable Construction), D4 (Landscape Requirements), D5 (Trees on Development Sites), E2 (Employment Generating Development in Built-up Areas), RE3 (Open Space Provision in New Housing Developments), TA7 (Adequacy of Road Network and Site Access), TA9 (Parking Provision in New Development).
3. The proposal does not adversely affect the privacy or amenity of neighbouring properties.
4. The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.
5. The proposal is contained within the defined built-up area boundary of the settlement.
6. The proposal is considered to be in line with Policy D1 of the East Devon Local Plan and the Avenues Design Statement for the following reasons. The main themes to arise during consideration of the application were the principle of the proposed development, the size and scale of the replacement building, the design and impact on the character of the area, the potential impact on neighbouring residential amenity, parking and access and landscaping. The development on balance in relation to the size of the replacement building would not prejudice the open and spacious character of the area nor lead to an overly dominant building when viewed from public vantage points. The contemporary form and overall character of the building in relation to the area, is considered to be of sufficient quality and picks up important defining characteristics of the area.
7. The development is considered to accord with Policy D1 of the East Devon Local Plan in terms of its relationship with neighbouring residents. In particular the size and height of the proposed building would have the potential to detract from amenity. A careful consideration of the potential overbearance, overlooking and loss of light for neighbours concluded that on balance the development would not significantly harm existing levels of amenity. Although the building would impact to some extent, the effects would not be so significant that an objection could be substantiated in planning terms.
8. The degree of parking to be provided complies with both national and local planning policies. There is no reason to consider the application as an exceptional case as the proposed use would be commensurate with the existing uses in the area. Off-road parking is available close to the site if necessary and the use of this would not prejudice highway safety. The development is therefore in accord with Policies TA7 and TA9 of the East Devon Local Plan

## **Approved Plans**

T1A, 4677, 03373, P2 rev B, P3 rev A, P4 rev B, P5 rev B, P6 rev B, P7 rev A, P8 rev B, P10 rev A, P12 rev B, P11 rev A, P9 rev B, P12 rev B, P16.

## List of Background Papers

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