

EXMOUTH
(Exmouth Town)

06/1369/MFUL
(FULL)

23.08.06

Applicant: Eagle One Ltd

Location: Former Gas Depot, Former Gas Holding Site, Fore Street
(Grid Ref: 300338/80957)

Proposal: Construction of 18 flats (3 one bedroom flats and 15 two bedroom flats).

Consultations

County Highway Authority

Recommends refusal:

The proposed development does not make adequate provision for the parking of vehicles within the site and would therefore be likely to encourage parking on the highway, with consequent additional danger to all users of the road.

Environment Agency

No objection subject to consideration of the contamination risks. Consider imposing the following condition:

No development approved by this planning permission shall commence until an investigation has been carried out to establish the likely presence, extent and potential impacts of contaminated soils and groundwater at the site. This investigation will include a desk study and development and refinement of the conceptual model, site investigation, risk assessment, and remediation proposals and method statement. This work will be carried out in a phased approach with each phase informing and determining the need to carry out later phases. This work will be carried out in accordance with current good practice and agreed by the Local Planning Authority.

Reason: To protect the water environment.

South West Water

South West Water has no objections provided foul drainage is only connected to the public foul or combined sewer. Should no separate storm system be available, details of the means of disposal must be submitted for prior approval. The use of soakaways will require satisfactory percolation tests to have been undertaken.

However, please note that there are public sewers in the vicinity. These are shown on the attached plan. Please note that no development will be permitted within 3 metres of the sewers without the express consent of South West Water

We also request that ground cover is not substantially altered to ensure the security of our apparatus.

Head of Environmental Health and Health Equalities

Recommend refusal at this time as report received does not demonstrate thorough site investigation. In lieu of refusal, appropriate pre-commencement condition can be included to ensure safe clean up of site before development.

Head of Housing and Social Inclusion

It is not clear to me which are the 10 affordable homes, but the flats are small in terms of floor area and I would prefer to see separate kitchens, more storage, and regular shaped rooms.

I would want to see how the applicant intends to ensure that the homes are genuinely affordable. I would also want to see at least 75% of the homes social rented, and preferably through a registered social landlord at Housing Corporation target rents. There should be a mechanism to ensure that the homes are affordable in perpetuity and available for nominees from the councils housing register. This is all in accordance with our interim SPG on affordable housing.

The housing needs survey 2005 by Fordham Research is on our web site under housing. Housing Strategies. It identifies a high level of need for one and two bedroom homes.

Requested Financial contributions

Education

The contribution required for Exeter Road Primary School is £17,362.50.

The contribution required for Exeter Community College is £10,417.50.

Open Space

The required contribution for off site provision (on the basis of nil being provided on site and excluding land purchase costs) is £42,585.17

Planning History

App. No	Year	Proposal	Date and Decision
3386	2005	Change of use of temporary public car park	10.05.06 Approved
P1004	2002	Residential development of 5 dwellings	20.08.02 Refused (Appeal allowed)
P0117	2001	Residential development of 5 dwellings	02.05.01 Refused
P1223	1988	Depot Refurbishment	03.08.88 Approved

Representations

24 letters of objection have been received from 11 objectors

In addition a petition against the development containing 135 signatories

2 letters of support and a design statement have been received from the applicant and agent

Summary of Objections

- Family sized housing (and not 1 and 2 bedroom units) is required.
- Lack of parking (particularly as other developments on Fore Street, without parking provision have been allowed), a poor access and increased traffic generation will cause congestion within the Fore Street area
- There should not be a trade off of social housing requirement on the Fore Street site with the Madison Wharf development in Exmouth
- Density represents over exploitation
- There is a lack of outside space and amenity provision for future occupiers
- Design is poorly detailed and alien to character of Fore street and adjoining Conservation Area
- The development fails to take suitable account of levels difference between the site and immediate neighbours

- Development would result in poor and awkward access for maintenance of neighbouring properties
- Landscaping is extremely limited on site and where it is provided may cause undermining of neighbouring properties.
- In appropriate storage of waste refuse may (particularly on collection days) add to clutter, nuisance from seagulls and pollution
- Proposed development is too high for the site and cause loss of views of river and landscape.

Town/Parish Council

Objection on the grounds that it would create a cramped living area for future occupants and would not provide any amenity space, lack of landscaping and possible loss of light, Local Plan Policy D1 (Design and Local Distinctiveness), need for family homes more than 1 or 2 bed units and concerns over the possible future contamination risks.

In addition to previous comments it was requested that EDDC be requested to consider the extent of the contamination on this site. This was raised because of concerns about contamination which had been identified by remedial action proposed by the applicant.

Ward Member

Cllr. Eileen Wragg

I object to the application.

This site is contaminated land and this is stated in the application, which also recommends that no vegetables should be grown on it. As the properties are mostly 2 bedroom, it is inevitable that children would live in the flats. If children playing or falling over were to come into contact with this contamination, I believe that they would be at risk, as would adults. Therefore, I believe that policies EN22 in the Local Plan and CO6 in the Devon Structure Plan would apply.

The proposed development is cramped and crammed with no amenity or outside space for future occupants. There is also the possibility of loss of light and sunlight, as well as overlooking. This would therefore conflict with policy D1 in the Local Plan.

The development would contradict the advice of Commission for Architecture and the Built Environment who emphasise the importance of good design throughout all their documents, which EDDC have signed up to by promoting a Design Champion. The Design Champion would "create leadership to generate enthusiasm and commitment for design quality and provide a point of contact for external bodies". The Champion would also co-ordinate effort across the authority, joining up different departments and combating organisational ghettos.

If this development were to proceed, all the aims of Commission for Architecture and the Built Environment would be seen to have been disregarded, as the flats, in my view, would be representative of a ghetto, which would generate all kinds of social problems.

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

Location

The former Gas depot at Fore Street Exmouth is an already cleared brown field site located immediately to the east of the town centre. Set on a flat plateau of land within a generally rising environment, the site is bounded to the north and east by retaining walls and to the west by a chain link fence delineating the site from the current Jewsons employment site. The entrance onto Fore Street is by means of the original gateway and currently formed by high wire mesh gates.

To the immediate north and east of the site, is the boundary for the Conservation Area. This boundary runs along the back of the application site and the rear service land for properties in Montpellier Road.

Planning Background

The site currently has extant permission for the erection of 5 three storey town houses which were allowed on appeal.

Following a change in ownership of the site however it is now proposed that any development that takes place on this site links to the final phase of residential development at the former docks in Exmouth. This link arises from a legal agreement which the Council entered into on the 5 July 2004 which allowed an off site provision of the affordable housing that would usually be required on site and within the final docks development phase.

This situation resulted from the initial grant of outline permission for the docks development in 1995 at which time, the Local Planning Authority had no policy concerning affordable housing. Consequently there was no mechanism at the Reserved Matters stage to require an affordable housing contribution within the docks development. However the applicants failed to submit all phases of the development within the required timetable and when a subsequent application for an extension of time was submitted and was refused, this provided the opportunity to obtain such additions as affordable housing. Following the refusal it was decided as 'reasonable' to enter into negotiations to extend the time period provided that affordable housing, open space contributions and education payments were made as necessary.

While it would normally be desirable that developments are of a mixed tenure nature, it was decided and incorporated in the legal agreement that in this particular case, better provision could be made off site. While the legal agreement did not specify where or how the units would be provided, it does provide the applicant with the option of either developing and transferring ownership of the affordable housing units to a Registered Social Landlord (RSL) or providing a financial bond and allowing the Council to take a project forward in conjunction with an RSL. The current site has come forward and been submitted by the applicants in an attempt to fulfil their requirements within the Legal agreement and provide dwellings which they would undertake to transfer to an RSL.

The Proposed Development

The application proposes the development of the former gas depot site with 18 flats in a mix of 1 and 2 bedroom units (three 1 bedroom and fifteen 2 bedroom). These would be split across two separate blocks of 9 flats each, 3 storeys in height. In

accordance with the legal agreement 10 of these proposed units would be provided as affordable housing and transferred to an RSL.

The blocks would be positioned around the periphery of the site with a central driveway providing vehicular access. A limited number of on site parking spaces would be provided, together with bin storage facilities and screen planting. A new brick wall would provide the boundary treatment to the north of the site.

The development itself would comprise a mix of brick render and timber boarding. This aims to provide a modern elevational treatment but with the intention of drawing on character found within the local area.

Planning Policy

Devon Structure Plan 2001 to 2016

- ST1 (Sustainable development)
- ST5 (Development Strategy)
- ST18 (Affordable Housing)
- CO6 (Quality of New Development)
- C07 (Historic Settlements and Buildings)
- TR10 (Strategic Road Network)
- ST4 (Infrastructure Provision)

Adopted East Devon Local Plan

- S1 (Built Up area boundaries for area centres and local centres)
- S3 (Development within Built up Area Boundaries)
- D1 (Design and Local Distinctiveness)
- D1B (Sustainable construction)
- EN16 (Preservation and Enhancement of Conservation Areas)
- EN22 (Contaminated Land)
- H3 (Affordable Housing)
- RE3 (Open Space Provision in new housing developments)
- TA6 (Adequacy of Road network and site Access)

Plan Policy Guidance

PPS 1 – The planning System General Principles (Delivering Sustainable development)

PPG 3 - Housing

PPG 15 - Planning and the historic environment

Observations

Although this application has legal links with the final phase development of the former docks site in Exmouth, it represents a stand alone scheme that must be considered on its own merits. In this instance the main areas for consideration relate to the provision of affordable housing within the town centre area of Exmouth together with the nature and type of accommodation being provided; issues of ground contamination; the scale massing and design of the resulting building; the energy efficiency/production of renewable energy on site; its impact on the setting of the Conservation Area; Parking provision and access; Storage of refuse; open space; and Impacts on education provision.

Affordable Housing

In 2005 an update to the Housing Needs Survey for the District showed amongst other aspects that there is a significant shortage of 1 and 2 bedroom units within the Exmouth area. While it is acknowledged that a number of representations have been submitted and refer to a need for family accommodation, this scheme should be viewed against the need that it in itself would fulfill. It has been agreed by the Housing department that such a development would significantly contribute to the housing needs identified within the area.

Concern was expressed within the consultation response from housing that the scheme was proposing a mix in tenure comprising 50% shared equity and 50% social rented. This falls below standards required within both the supplementary guidance on affordable housing and the Local Plan Policy H3. While this would not be considered acceptable when judged against the current policy framework it has come about as a result of the legal agreement in 2004. The current proposal is therefore in accordance with those requirements.

The consultation from the Housing department also made reference to the irregularity of internal room form; the open plan nature of the kitchen area and the lack of storage space. It is considered that these concerns were reasonable and the plans amended during processing. By amending both the external footprint of the buildings and the internal room layout, the scheme is now considered to work substantially better. It now provides more user friendly internal spaces, outside access in terms of balcony provision and internal storage. Significant weight can therefore be attributed to the affordable housing benefits of the development scheme. If minded to grant, the application will need to be passed to the legal section to draft the appropriate s106 and ensure that when built the identified units together with their tenure of occupation are transferred to a RSL

While considering housing provision, a complex legal issue must be addressed that surrounds whether an increased percentage of affordable housing units should be provided on site. This is because the units of affordable housing being provided represent the required contribution from a separate site and are not the contribution that would be normally be required if permission was sought for 18 stand alone units on this site. It is considered however that although forming part of a single 'comprehensive' scheme, the ten units for affordable housing should be treated separately from the remaining 8. The result is that as 8 fall below the target requirement of policy H3, no further affordable units should be sought. If further units were sought, this would result in the double counting of the existing provision requirement and would not be defensible.

Contaminated Land

Given the previous uses of the site, together with both the submitted ground investigation report and the consultation responses from Environmental Health (contaminated Land Officer) and the Environment Agency, this is a potential problem at this site. However, although the initial ground investigation report is limited in the scope of its work, the analysis of it does not indicate the problems to be insurmountable. This is somewhat reassuring as the development currently has an extant planning permission for 5 three storey town houses which were allowed on appeal. Notwithstanding the concerns of the consultations, the technical advice received is that the contamination can be suitably identified and dealt with by

precedent condition. This will suitably ensure that the site is made safe prior to any development commencing on site.

Design, scale and massing

The two blocks of accommodation that are sought are of a high density and modern design. They are of a linear nature and with the exception of the entrance block are of three storey. The entrance block which curves to meet the alignment of the entrance drive is two storey in height and has been so designed to read with the street form and main character of Fore Street. The element has been redesigned during consultation to provide a stronger roof form and more appropriate presence at the entrance to the site. By being kept to two storey with a mono pitch roof, it also has the effect of protecting the amenity interest of the neighbouring residential properties and preventing a undue dominating impact and over-looking. The front elevation also comprises detailed solid courses which wrap around the front of the building. Such a feature corresponds with the existing properties in the terrace and helps to assimilate the modern design with the old.

The form and shape of the buildings and particularly the eastern block with a bridge at first floor level, has been designed such that it does not impinge on South West Water apparatus and the sewers which cross the site. In this instance sewers cut across the site under the bridged section before turning north through the parking area. The arrangement of drainage has been a significantly constraining feature, but the design appropriately manages this and does not appear a harmful element.

To try and limit any adverse design impacts within the building and reduce the visual dominance and massing, the building has been designed with a strengthened vertical emphasis. This has been achieved by mixing the palette of materials and breaking up what could potentially be bland and uncomfortable elevations. While the materials and overall building form may appear modern, the vertical emphasis and repeated form of design patterns, window form and window positioning is a traditional building character which is found within the surrounding terraces and Conservation Area.

It is noted that the design of the buildings themselves have been positioned such that although there is only a separation gap of 3.7m between the respective blocks, the alignment and window positioning has been carefully considered to prevent any overlooking between individual units. While all occupants would clearly be new together it remains important to limit any harmful intrusion/overlooking between properties – this has been achieved.

As alluded to earlier in the consideration, the plan form has been amended during the processing of the application. This has had the effect of simplifying the design such that it is less convoluted with awkward spaces and corners. The design is now considered acceptable. Together with the simplified design, it has also enabled balconies to be added, providing outside space for residents and design interest for the building. These are also considered important additions for the development.

An important concept within the design remit of this scheme is the lighting under the bridge section of the rear block. Access to the rear block is obtained from the covered area and while previously identified dark corners have been removed, the safety and well being of future residents is important. There will be passive surveillance of this area from ground floor flats in the front block but careful treatment of lighting is also important. No details of this have been provided at this stage, but these can be reasonably required at condition stage if the application is approved.

Energy savings and onsite production

Policy D1B of the now adopted Local Plan not only places a requirement for 'very good' levels of suitable construction but as renewable energy production on site for this scale of development. The applicant has raised concerns that to provide such energy production schemes on site would not only be prohibitive in terms of cost but also fail to make suitable returns given the level of affordable housing which the scheme entails. Although renewable energy production is important, it is considered that provided (as demonstrated within a submitted Electrics survey) insulation is substantially improved and thereby lowers energy consumption, this should be accepted in this case. Such a scenario enters the spirit of the policy and would reduce the burden placed on the environment, albeit at a lower cost for the applicant. Provided the levels of insulation are met then the failure to provide renewable energy production on site should not result in the refusal of the scheme.

Impact on the Conservation Area

In terms of the impact on the wider built form, it has already been demonstrated that the main view points into the application site have been treated in such a manner as to reflect the key issues of both the historical elements of Fore Street and the Conservation Area. Just because a design is not pastiche or aiming to slavishly follow the existing design does not necessarily mean that it is inappropriate for the site. In this instance the modern design is located to rear of the Conservation Area and following amendments to the plan, embodies key concepts that are found within these areas. Such features include a vertical emphasis in terrace form, repeated patterns and built forms. To assist with aspect there is a simple palette of materials that is repeated both on the internal driveway / courtyard spaces provided but also on the external elevations.

To the west there is currently an awkward relationship with the existing Jewsons hardware sales and storage area. While providing windows on this elevation need not compromise the functioning of the sales area there are limitations imposed by Building Control due to the nature of the boundary and desire to keep the development somewhat self-contained. While it would clearly be desirable to provide a comprehensive scheme that treated the boundary less harshly, the use of attractive cladding material, with a vertical emphasis and some fenestration is considered appropriate. It is considered that a refusal on these grounds would be unsuccessful and prevent a much needed development providing affordable housing.

Parking provision and access

This is a much contested issue within the application given the low number of allocated spaces on site compared to the high density of the development and the relatively high density of existing properties. Notwithstanding the recommendation of refusal from Devon County Highways to the initial scheme, the site is within the town centre of Exmouth. Some parking exists within the immediate vicinity of the development site, (including long stay car parks), there is easy pedestrian access to the town centre shops and services, and there is easy access to a variety of means of transport including bus and rail links. The reuse of a brownfield development site with high density accommodation in such a sustainable location is rare in East Devon. The site and development function proposed within the application is therefore fully in accordance with government advice and despite concerns over

access, limited parking and resulting congestion; it is considered that the application should not be refused on this issue.

Storage of refuse; open space; and Impacts on education provision.

Issues concerning storage of refuse; open space; and impacts on education provision have been raised within various consultation responses received. It is noted that the plans indicate a self contained area for the refuse storage and it is anticipated that this would be adequate (including capacity) to store refuse. It is also close to the entrance where collection by Council should be possible.

Open space provision is important for the health and well being of people and assists in making stable and well balanced communities. This has resulted in a greater importance on the provision of balconies within the scheme to enable access to even a small area of outside space. In addition it is also being requested that the applicants make a contribution to off site provision. This is because despite the balconies there is practically nil on site and there is a recognised importance of such facilities within both the local plan and the national government advice. The calculated requirement is £62,782.17. However because it is not anticipated for additional land to be purchased it is reasonable to remove the land purchase costs from this, and request a total contribution comprising £42,585.17. Such a requirement would be handled within the remit of a s106 if the application is set for approval.

Given the scale of development and size and number of units of accommodation proposed, Devon County have advised of an Education contribution arising from the additional needs that the development will place on the local schools. This amounts to a total contribution requirement of £27,930 and can also be achieved through a S106 agreement.

Other matters

Concerns have been expressed regarding issues including views and impact on party walls. While it is recognised that these are important to individual people, they do not form material considerations within the remit of planning and can not therefore form part of the reasoned consideration of this proposal. Issues particularly surrounding works close to and adjoining party walls are civil matters for which different legislation provides safeguards.

Conclusion/Summary

Based on the evidence reviewed above, the application is considered an important, necessary and successfully designed scheme, which will provide a high-density development including a large proportion of affordable housing on an existing brown field site. As the site is within easy walking distance of the town centre together with all the amenities and service access points that this provides, the scheme is considered to comply with government advice and planning policy. It is recognised that concerns may exist regarding congestion and lack of parking. However it is considered that in this instance, the need for affordable housing particularly as it would be located within the town centre area significantly outweighs these concerns.

Recommendation

Subject to the completion of a Section 106 Agreement to cover the following aspects: affordable housing, education and public open space, it is recommended that PLANNING PERMISSION BE GRANTED subject to the following conditions:-

1. Development shall not begin until a scheme to assess the presence and/or concentration of any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The investigation must satisfy the Local Authority that ground conditions are suitable for the intended use of the development and identify the measures required to avoid unacceptable risks to the public, site operatives and environment, during and following development.

Should remediation measures be required (as agreed by the Local Planning Authority) development shall not commence until a remediation scheme has been submitted to and approved in writing by the Local Planning Authority.

Following completion of this scheme a completed remediation statement must be accepted prior to the occupation of the development.

The remediation statement shall record –

- a) the things which are being, or have been, done by way of remediation in the particular case, including results of validation testing where required
- b) the name and address of the person who is doing or has done each of those things
- c) the periods within which each of those things has been or is being done

and if remediation measures include the use of imported topsoil:

- d) evidence to demonstrate that imported topsoil is free from contamination. (Reason – To ensure that contamination of the site is corrected prior to development, and to ensure the safety of site workers and future users of the site.)

2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been 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. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. 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.)

4. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens, 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.)

5. Prior to the occupation of any dwelling hereby permitted a lighting scheme for the area under the bridged section of the development in the eastern block hereby permitted, shall be submitted to, agreed in writing by the Local Planning Authority and implemented in accordance with the agreed details

(Reason - To provide a safe entrance way to the residential flats.)

6. The development hereby permitted shall be constructed using energy saving devices including and be in accordance with the energy scheme as submitted by the applicant.

(Reason - To ensure that the buildings have a high energy efficiency.)

List of Background Papers

The file containing all letters, consultations, and documents referred to in the report.