

Committee Date:
09.03.2010

SIDMOUTH TOWN
(Sidmouth)

10/0131/MFUL

Target Date: (28.04.10)

Applicant:

Devon and Cornwall Housing Association

Location:

Car Park and building adjacent Mill Street and Holmdale

Proposal:

Redevelopment of site to provide 12 no. Apartments with associated access, parking and landscaping works

CONSULTATIONS

County Highway Authority

The site is ideally located within the town centre for residential development and the access, although constrained by the narrow width of Holmdale, is adequate to serve the traffic generation that would result.

A two metre wide footway is to be provided along the frontage of the site to Mill Street which will be a tangible betterment for pedestrians in the area.

The proposals are acceptable from a transportation point of view.

South West Water

Comments awaited

Environment Agency

Comments awaited

Natural England

No objections to the proposal, however we welcome the recommendations made by David Wills in the Ecological Survey Report.

Environmental Health Manager

No comments

Head of Housing and Social Inclusion

We welcome the opportunity to provide much needed affordable homes in Sidmouth.

We have agreed an option with Devon and Cornwall Housing Association that they proceed on the basis that the existing building and adjoining car park be transferred to their ownership once all matters have been approved.

In accordance with the Housing Market Assessment 2007 (HMA) we would normally expect to see a tenure split 70/30% in favour of social rented the remaining as shared ownership. However, in this instance we have agreed that all 12 apartments be available in perpetuity for social rented affordable homes.

All affordable housing will be constructed in accordance with the Homes and Community Agency build and design standards. All nominations will be made via East Devon District Council.

TOWN/PARISH COUNCIL

Comments awaited

WARD MEMBER(S)

The initial comments of the Ward Member(s) are -

No comments received at the time of writing

REPRESENTATIONS

The application has been advertised and local residents consulted with a closing date for comments of 17 March 2010.

PLANNING POLICIES

Government Guidance

PPS1 – Delivering Sustainable Development
PPS3 –Housing
PPS6 – Planning for Town Centres
PPG13 – Transport
PPS25 – Development and Flood Risk

Devon County Structure Plan (2001-2016)

ST18 (Affordable Housing)
CO6 (Quality of New Development)

East Devon Local Plan (1995-2011)

S4 (Development Within Built-up Area Boundaries)
S7 (Infrastructure Related to New Development)
D1 (Design and Local Distinctiveness)
EN6 (Wildlife Habitats and Features)
EN16 (Contaminated Land)
EN20 (River and Coastal Flooding)
EN21 (Surface Run-Off Implications of New Development)
H4 (Affordable Housing)
RE3 (Open Space Provision in New Housing Developments)
TA7 (Adequacy of Road Network and Site Access)
TA9 (Parking Provision in New Development)

SITE LOCATION AND DESCRIPTION

The application site is a reserved space EDDC car park located to the west side of Mill Street and south of Holmdale. The site is hardsurfaced and relatively level with a few isolated immature trees within it.

To the southwest the site is bounded by No.8 Mill Street and the high level brick wall to its rear garden area. This boundary wall continues around to the northwest where the site bounds properties on the south side of Holmdale. To the north side of the site, centrally located along the northern boundary, is a two storey building of rendered elevations and a slate roof. On the opposite side of the road to the north of the site is a large early 20th century building, in use as a dental practice. To the east the site is mainly open to the pavement that runs along the west side of Mill Street, save for some concrete barriers and a short section of post and pole fencing.

The site lies just to the east of the town centre and north of the seafront. The surrounding area is predominantly residential in character with properties of 2 storey height (although accommodation within the roof area and the use of dormer windows is common). The site lies within an area designated as Flood Zone 3: High flood risk.

PROPOSED DEVELOPMENT

The application is on behalf of Devon and Cornwall Housing Association and was submitted as redevelopment of the site to provide 12 no. Affordable apartments. However, the site lies within the built-up area boundary of a settlement with a population greater than 3000 and therefore there is no policy requirement for affordable housing on a site of this size or planning reason to restrict it as such. The application has therefore been advertised and considered as 12 unrestricted apartments. Nevertheless, the site is owned by East Devon District Council and therefore there is control through land ownership and covenants on the land to ensure that the apartments, if approved, would be retained as affordable in perpetuity.

The proposal involves the demolition of the existing, former gym, building on the northern part of the site. The site would be cleared and developed in the form of a frontage block that would begin parallel to no. 8 Mill Street, turn with Mill Street and run along the eastern boundary of the site before returning along the northern boundary with Holmdale. Although the development would be a single block it has been designed to appear as a short terrace with the elevation and ridge line broken up and variation in elevation materials used.

The development would provide for 5 no. two bed apartments and a bin and cycle store on the ground floor, 5 no. two bed apartments on the first floor and 2 no. two bed apartments on the second floor. To the immediate rear of the building is an amenity space and clothes drying area with further to the west a resident's car park of 12 spaces. A new access would be constructed onto the south side of Holmdale (where traffic would turn right - Holmdale being one way).

CONSIDERATIONS AND ASSESSMENT

It is considered that the main issues in the determination of the application are:

- The design, scale, massing and layout of the proposal;
- The impact on the streetscene/character and appearance of the area;

- The impact on residential amenity;
- Flood risk and the sequential test of site selection;
- Provision of affordable housing;
- Highway Safety;
- Impact on protected species;
- Contaminated land issues, and;
- Other issues

Each issue is considered in turn and discussed below.

The design, scale, massing and layout of the proposal

The application proposes a frontage form of development with the construction of a single building on the back edge of the realigned pavement facing east onto Mill street. Although the proposal is for a single building the massing of this is broken up through steps in the ridge height and elevations and the use of materials. The proposal would therefore appear as a short terrace of two storey properties with additional accommodation within the roof.

The entrance doors to the building are set above pavement level and accessed via steps. There is alternative level access from the rear of the buildings. The ridge height at the northern end is broadly comparable with the existing building on the opposite side of Holmdale. The ridge height then steps up in the middle of the building before reducing down again at the southern end. At this end of the site, the building turns the corner to align with the existing properties in Mill Street that face south. At the northern end of the site the building returns along Holmdale presenting a gable end, and side elevations of single and two storey offshots.

At the rear of the site is a small amenity area immediately adjacent to the west elevation of the building and a fenced drying area for occupants of the apartments. In the north western part of the site a car park is proposed providing one space per unit.

Vehicular access is taken onto Holmdale directly from the proposed car park. Holmdale is restricted to one-way traffic and therefore all traffic would then turn east to join Mill Street. There is a separate pedestrian access to the rear of the site proposed between the south western part of the building and No.8 Mill Street.

The impact on the streetscene/character and appearance of the area

The site lies outside the Sidmouth Conservation Areas and there are no Listed Buildings adjoin the site

At present the tight knit form of terracing that characterises the immediate surrounding streets of Holmdale, Mill Street and Russell Street breaks down at the site and opposite on the other area of car parking. These open areas of parking whilst established are not considered to reflect the general character of the area and provide nothing in the way of enhancement to the appearance of the area.

The proposed development in the form of a short terrace of properties in a mix of render and brickwork would reflect the form of development in the vicinity both in terms of layout, design and use of materials. The provision of accommodation within roofs served by pitched roof dormers is also common. The height of the buildings is greater than that of the adjoining buildings at either end of the site which is unfortunate. However, this greater height is required in order to provide raised floor levels above the 1 in 100 year flood level.

Notwithstanding some minor concern relating to the overall height of the proposed development, and subject to appropriate materials and detailing it is considered that the scheme as a whole would have a positive impact on the streetscene.

Impact on residential amenity

There are adjoining residential sites to the southwest, northwest and north sides of the site. There are also further residential properties in Riverside Road to the west. There are two main issues to consider; loss of privacy (through overlooking), and loss of amenity (through either loss of light or overbearing impact).

It is considered that the properties to the southwest side of the site have the potential to be most affected by the proposal. To the east the properties in Riverside Road have their rear elevations facing the site. These properties have very limited rear amenity space which is open to degrees of mutual overlooking already. The more southerly properties in this terrace would be too far away from the proposal site to be affected and those at the northern end whilst there may be some increase in overlooking this is not considered to be significantly greater than existing levels.

The building to the north of the site is in use as a dental practice at ground floor level with, it is understood, a holiday flat above. The proposal scheme would lie to the south of this and would project forward of this properties front elevation. There is the potential for some loss of light and shadow cast to the front elevation of this building at certain times of the day but not to a significant degree and this would be offset by the loss of the existing building on the north side of the site that would have had a similar impact on the rear elevation of the building. All windows in the north elevation of the proposed building shown facing north are indicated as obscure glazed.

To the northwest side it is considered that the properties in Holmdale would be too far away from the proposed building to be affected in terms of loss of light and whilst there would be an increase in windows viewing toward these properties, any views would not be direct window to window and would be at a distance of over 25 metres, this relationship is considered to be acceptable. The proposed car parking area would be immediately adjacent to the boundary with no. 14 Holmdale but this is no different from the current situation.

To the southwest side of the site lie the properties in Mill Street. The first three properties are a terrace of two storey houses the rear gardens of which extend to the north and abut the boundary of the proposed car park. The proposed building would be built to within two metres of the east elevation of No. 8, the closest of the neighbouring properties. The wall of the proposed building facing the east elevation of No.8 would also extend out to the north for several metres beyond the north elevation of No.8.

The angled relationship of No.8 (and its neighbours) with the proposal building, the existing levels of mutual overlooking and the fact that there are no first floor windows or

above serving habitable rooms at the southern end of the building, leads to the consideration that there would be no significant increase in levels of overlooking as a result of the proposal. However, there is potential for the proposals to have an overbearing impact upon and result in a loss of light to the rear garden areas of these neighbouring properties and particularly to No. 8. The applicant's agent has supplied a sun path analysis to accompany the application which demonstrates the shadow cast of the building. The period of study indicated is for high summer and indicates that there would be shadow cast to the garden of No.8, caused by the proposal until approximately 10 a.m. after which the orientation and positioning of the buildings is such that the proposal would no longer have any impact. It is considered that whilst there would clearly be some loss of light to the garden area of this property this would not be so significant as to warrant refusal of the application. Likewise the height and proximity of the proposed building is likely to result in a perception of enclosure, over the current open aspect to the east, to the occupiers of No. 8 but the actual impact of the development would not be significantly harmful enough to warrant a recommendation of refusal.

Flood risk and the sequential test of site selection

The application site lies within Flood Zone 3a (High Flood Risk), having between a 1:100 and 1:1000 annual probability of river flooding (1% - 0.5%). Planning Policy Statement 25 (Development and Flood Risk) aims to locate development in areas at lower risk of flooding and development of housing in flood zone 3a requires the proposal to pass both the sequential and exception tests.

For the sequential test to be passed, it would need to be determined whether this was an appropriate site for residential development and whether other sites in a lower flood risk zone were readily available. In theory the search area that the sequential test could be applied at would be the rest of the district. In which case it would need to be considered whether there are any alternative sites in the rest of the district where 12no. apartments could be developed at lower flood risk. In this instance, however, given that the proposal site is brownfield, edge of centre and is submitted as affordable housing (albeit can not be secured as such through any planning permission) it is considered reasonable to assess it against other similar sites within the town.

The test area has been confined to Sidmouth and specifically the town centre and has considered 4 alternative sites. The conclusions reached are that the proposal site is the only suitable, available and achievable site, the alternatives being too small, also within flood zones or constrained by other reasons. The conclusions of the sequential test report, in relation to the suitability of the other sites, appears reasonable although it is not clear whether any other sites were considered in a wider search area away from the town centre.

On this matter the practice guide to Planning Policy Statement 25 states:

“Only where there are no reasonably available sites in Flood Zones 1 or 2 should decision-makers consider the suitability of sites in Flood Zone 3, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.”

Furthermore,

“Application of the Sequential Test should ensure that more vulnerable property types, such as residential housing (see table D.2 of PPS25), will not be allocated to areas at high risk of flooding. In exceptional circumstances, there may be valid reasons for a

development type which is not compatible with the level of flood risk at a particular site to be considered. In these circumstances the LPA or developer must demonstrate that the development passes all elements of the Exception Test.”

“For the Exception Test to be passed:

- a) it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a SFRA where one has been prepared.
- b) the development should be on developable previously-developed land or, if it is not on previously developed land, that there are no reasonable alternative sites on developable previously-developed land; and
- c) a FRA must demonstrate that the development will be safe, without increasing flooding elsewhere.

The matter for determination here then is firstly, whether it is considered that sufficient consideration has been given to alternative sites and whether the area of search is adequate and if so and the proposal site is considered to be sequentially acceptable whether the exceptions test can be passed. In relation to the second and third criteria set out above it is considered that the proposal would satisfy these. It is also considered that the provision of affordable housing could be considered to represent a wider sustainability benefit to the community, albeit this can not be secured through the grant of any planning permission.

At the time of writing a response is awaited from the Environment Agency and it is hoped that members can be verbally updated of this at committee.

Provision of affordable housing

As previously mentioned the proposal is for 12 apartments within a settlement of more than 3000 population and with a site area smaller than 0.5 ha, as such there is no policy requirement for the provision of affordable housing. As there is no policy requirement for affordable housing it follows that the provision of such can not be secured by condition or Section 106 legal agreement. Therefore, whilst it is accepted that the proposed developer is a local housing association and that their intention is to provide for 100% social rented accommodation this can not form part of the planning consideration of the proposals. However, it is recognised that the Council as landowners of the site would have alternative means of ensuring that the affordable housing is secured in perpetuity.

Highway Safety

The site is located in the town centre in a sustainable location within level walking distance of local shops. The proposal would result in the loss of the existing reserved space car park which is likely to displace this car parking to other locations within the town. In itself the loss of the existing car park, whilst it would impact on existing users, would not be a reason to oppose the redevelopment of the site.

The proposed parking provision would equate to one space per dwelling this would comply with maximum parking standards set out in policy TA9 (Parking Provision in New Development) of the Local Plan. The Highways Authority has commented that the access arrangements, whilst constrained are considered to be acceptable. Therefore

subject to conditions to ensure the provision of a widened footway to Mill St. and the provision of cycle parking facilities the proposal is considered to be acceptable in highway terms.

Impact on protected species

The application involves the demolition of an existing building that has the potential to be used by bats or other protected species. The application is accompanied by an ecological survey report which found no evidence of such use but which makes a number of recommendations, these relate to: precautions during building works; providing access for bats (in the new development) and the treatment of timber to be used. Natural England has responded that they have no objections to the proposal and welcome the recommendations set out in the report.

Contaminated land issues

Part of the application site was formerly used as a garage (from some time prior to 1954 until the mid 1990s) and therefore there is potential land contamination related to this former use. The application is accompanied by a Ground Investigation and Environmental Assessment Report. The investigations found that levels of contamination present a significant possibility of harm to human health. The remedial measures proposed include the surface covering of the site with either permanent hardstanding or 600mm of inert soil underlain by a geotextile membrane. The views of the Council's contaminated land officer have been sought in this regard but at the time of writing no response has been received. It is hoped that members can be verbally updated at committee and it is expected that if appropriate the remediation measures could be controlled by way of a suitably worded condition.

Other issues

All residential development, in line with Policies S7 (Infrastructure related to Development) and RE3 (Open Space Provision in New Housing Developments) are required to bear the costs of providing infrastructure related to their use. In this circumstance the applicants have provided development cost figures to demonstrate that meeting the usual costs of infrastructure related to the development and in particular open space requirements would make the development unviable. Given that the applicant is a registered social landlord seeking to provide 100% affordable housing and that in similar circumstances the Council has waived the requirement for open space contributions it is considered appropriate in this instance to set aside this requirement.

As social rented housing the proposals are required to meet code Level 3 of the Code for Sustainable Homes.

CONCLUSIONS

The design and layout of the proposal is considered to be appropriate to the surrounding area and the development could be achieved without significant detrimental impact on residential amenity. The proposal is also located in a sustainable town centre location and would involve the re-development of a brownfield site. However, the site also lies within an area with a high probability of flooding and where there is a presumption against residential development, unless there are no alternative sites. If members consider that the site is sequentially acceptable for residential development (in terms of flood risk) and are satisfied that this can be secured as affordable housing in the long

term, through alternative measures then planning permission can be granted. If on the other hand the site is considered unacceptable in terms of flood risk and that other more suitable sites, at a lower risk of flooding, are available, then permission should be withheld. In the absence of a view from the Environment Agency and weighing the potential benefits of the scheme against the issues raised, it is officer opinion that on balance the application should be approved.

RECOMMENDATION

APPROVE subject to the following planning 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. Notwithstanding the submitted details and prior to the commencement of any development above foundation level, 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. Prior to the commencement of any development above foundation level, further details of the following design elements shall have been submitted to and approved in writing by the Local Planning Authority.
 - Rainwater goods including profiles, materials and finishes.
 - Detailed design drawings for bay window and porch canopies
 - Typical window details including sections (to include reveal, header and cill), and finished colour.
 - Eaves and verge details including construction and finishes.
 - The positioning of any external vents, flues and meter boxes.

Development shall be carried out in accordance with details as may be agreed.
(Reason - In the interests of good design and the character and appearance of the surrounding area.)

4. prior to the commencement of any development above foundation level a

landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority; such a scheme to include:

- Details of any tree or shrub planting including size, species, number and location and of any areas to be grassed

- Details of the finished surfacing of the car park, amenity space, drying area and shared access path and all other areas of hardsurfacing
- Elevation details of the wall to the north side of the car park including any coping materials and pier construction.
- Details and specifications of any means of external illumination.

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.)

5. No part of the development hereby approved shall be brought into its intended use until the access, footway to Mill Street, parking spaces, turning area and access drainage 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.)

6. No new development shall be occupied until space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for minimum 12 cycles to be parked. The cycle parking area shall be secure, illuminated, conveniently located, used and retained exclusively for its designated purpose.

(Reason - To ensure that adequate facilities are available for the cycles owned by residents of the site.)

7. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until the following conditions (1, 2, 3 and/or 4) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 3 has been complied with in relation to that contamination.

1. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

2. Implementation of approved remediation scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

4. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

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

Informatives

The applicant is advised that in accordance with condition 2 above the Local Planning Authority would wish to see the use of natural slate to areas of roofing.

Reasons for approval

The proposal complies with the Devon Structure Plan 2001-2016 Policy CO6 (Quality of New Development),

The proposal complies with the adopted East Devon Local Plan 1995-2011 Policies S4 (Development Within Built-up Area Boundaries) and D1 (Design and Local Distinctiveness),

The proposal does not adversely affect the privacy and/or amenity of neighbouring properties.

The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.

Approved plans

5551-LP (rev A), 5551-10 (rev B), 5551-11 (Rev B), 5551-12 (rev A), 5551-14, 5551-15

List of Background Papers

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