

Mr Howard Smith
Exeter City Council
Planning Services
Civic Centre Paris Street
Exeter
Devon
EX1 1JN

Our ref: DC/2023/123568/01-L01
Your ref: 23/1007/OUT
Date: 11 October 2023

Dear Mr Smith

DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND RESIDENTIAL-LED MIXED USE DEVELOPMENT PROVIDING NEW DWELLINGS AND WORKSPACE, RETAIL, CAFÉ/RESTAURANT, COMMUNITY AND CULTURAL/LEISURE/EDUCATION/HOTEL USES AND ASSOCIATED INFRASTRUCTURE, INCLUDING VEHICULAR ACCESS, SERVICING, MOBILITY HUB, ENERGY PLANT; ALTERATION OF GROUND LEVELS; DRAINAGE AND PUBLIC OPEN SPACE; LANDSCAPING AND PUBLIC REALM WORKS; INCLUDING PEDESTRIAN AND CYCLE ROUTES, WITH ALL MATTERS RESERVED FOR FUTURE CONSIDERATIONS, WITH THE EXCEPTION OF ACCESS.

WATER LANE (SOUTH), EXETER

Thank you for consulting us on the above planning application.

Environment Agency position

We object to this proposal on grounds that insufficient information has been submitted to demonstrate that the proposed development will be safe from flooding over its lifetime and not increase the risk of flooding to third parties. It is therefore contrary to the National Planning Policy Framework (NPPF). We recommend that the application is not determined until a satisfactory Flood Risk Assessment (FRA) has been submitted. The addendum FRA will therefore need to be produced and submitted.

Before determining the application, your Authority will need to be satisfied with the emergency planning implications associated with the application and be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test or either part of the Exception Test is sufficient justification to refuse a planning application.

The reason for this position is set out below.

Environment Agency
Sir John Moore House Victoria Square, Bodmin, Cornwall, PL31 1EB.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

Cont/d..

Reasons – Flood Risk

The addendum FRA report is mentioned in the submitted FRA (August 2023, by Stantec) and Design and Access Statement, and at their time of writing it is stated that our full flood model was not available. Our full model has been available since the beginning of August 2023, and would be provided upon request. Once we have received the addendum, we can provide a full technical assessment on the flood risks and the impact to and from the development.

In addition to the above we have the following flood risk technical comments:

The overall strategy of the scheme takes a sequential approach and sets floor and site levels above the future flood risk, which is welcomed and follows our pre-application advice. The proposal to facilitate (with land) and link into a future strategic Safe Access and Egress route is also welcomed. As you are aware from discussions in relation to other development sites within the vicinity of Water Lane, consideration of the adequacy of emergency planning procedures falls with your Authority. We understand that your Authority is still looking at options for this area, which will include considering whether it is feasible to create a strategic Southern Safe Access and Egress route. If this is the preferred option, we recommend that the route should be provided as soon as reasonably practical within the confines of the redevelopment of this area of Exeter.

With regard to the submitted detail, we do have some concerns that the site cross sections and illustrative views do not properly show the required design for floor level heights. The road levels along Water Lane will have to remain the same, to be a flood conveyance route; this will affect the required landscaping. The minimum ground floor levels along Water Lane will be in the region of 0.7m-1.2m higher than the road. We note that this is not shown on any drawing/image. We ask that additional drawings/illustrations are produced to show the required height difference, so that your Authority and the public can be properly informed.

We also note that in the Design and Access report flooding section, paragraph 6.43 states that the '*Proposals seek to maintain water conveyance along Water Lane and aim to ensure flood risk is not increased elsewhere*'. We cannot accept this statement. In order to satisfy the second part of the Exception Test, the flood water conveyance route **must** be retained, and flood risk **must not** increase elsewhere. The conveyance route can be altered if this is supported by a full flood risk technical assessment setting out the likely impacts.

Subject to the above issues being resolved, we are likely to require the inclusion of a series of planning conditions on the following topics:- Landscaping/site levels; Flood Conveyance route; minimum Finished Floor Levels; Flood Resistance & Resilience design and minimum levels; The Exact 'More Vulnerable' usage/rooms (e.g. Hotel/College) at Ground floor (ancillary/low consequence uses only); Phasing etc. Additional matters may emerge following our review of the addendum report.

Advice – Contaminated Land

We have reviewed the documents submitted with the application, including the Interpretative Desk Study Report (August 2023, by Geo Environmental Consultants Ltd). There could be a chance of pollution on some locations as a result of the past and current industrial activities. Although the risk might not be very high, it is still possible that it could potentially impact the River Exe and groundwater. We agree with the suggestion to do investigations on the ground to find areas with a high risk.

We consider that planning conditions will therefore be necessary within any permission granted to secure this additional investigation work before development commences.

Advice – Pollution Prevention

We recommend that a Construction Environment Management Plan (CEMP) is produced to pull together and manage the pollution control and waste management requirements during the construction phase. A CEMP is best prepared with the main Contractor.

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 – Works and maintenance in or near water and PPG6 – Working at construction and demolition sites. These can be viewed via the following link:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Further guidance is available at:

[Pollution prevention for businesses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg)

Advice – Waste management

The developer must apply the waste hierarchy as a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Government guidance on the waste hierarchy in England can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69403/pb13530-waste-hierarchy-guidance.pdf.

Use of waste on-site

As much material as possible should be re-used on site. If materials that are potentially waste are to be used on-site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc...' in order for the material not to be considered as waste. Meeting these criteria will mean waste permitting requirements do not apply.

Where the applicant cannot meet the criteria, they will be required to obtain the appropriate waste permit or exemption from us.

The applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. Should a permit be required, they should be aware that there is no guarantee that it will be granted.

Movement of waste off-site

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here: https://www.gov.uk/uploads/system/uploads/attachment_data/waste-duty-care-code-practice-2016.pdf.

In order to meet the applicant's objectives for the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. More information on this can be found here: <https://www.gov.uk/how-to-classify-different-types-of-waste>.

Advice to the LPA

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Yours sincerely

SARAH SQUIRE
Sustainable Places - Planning Advisor

Direct dial 0208 474 6316
Direct e-mail SPDC@environment-agency.gov.uk