

## **1.0 Delegated planning report**

Number:	23/0326/FUL
Applicant Name:	Mr Aiden Johnson-Hugill
Proposal:	Creation of 28 apartments (including 4 existing apartments) at first-fourth floor level including an extension at fourth floor level, solar panels and an air source heat pump
Site Address:	Paternoster House 1-6 North Street And 182-184, 185 And 186 Fore Street Exeter EX4 3AX
Registration Date:	8 March 2023
Case Officer:	Catherine Miller-Bassi
Ward Members:	Councillor Diana Moore Councillor Tess Read Councillor Amy Sparling

## **2.0 Summary of recommendation**

GRANT permission subject to conditions as set out in the report.

## **3.0 Description of site**

The application site lies at a crossroad, on the north-west side of Fore Street and south-west side of North Street.

The site comprises a four to five storey (plus a basement) Victorian building named Paternoster House, which was purpose built in 1880 for retail use.

The building is locally listed and lies within the Central Conservation Area and an Area of Archaeological Importance.

Paternoster House is predominantly faced in red brick with stone window reveals and mullions, and a number of projecting window bays at first and second storey on the south-east, east and north-east elevations.

The building also has 3no. Dutch gables and a number of decorative finials at roof level on the south-east and north-east elevations, with a roof extension and turret at the eastern corner of the roof.

The ground floor south-east, east and north-east elevations comprise largely glazed shop fronts, which are currently boarded up.

The retail units are accessible by foot from several points along Fore Street and North Street. The upper floors are accessible via 4no. stairwells.

The south-west elevation is blank and faces onto the flank wall of nos.177-181 Fore Street, which comprises a single storey element (currently housing German Doner Kebab) immediately adjacent the application site and a three storey element (currently housing PureGym) adjacent to no.176.

The north-west elevation is largely blank with some windows at first to third floors facing nos. 7-8 North Street, which partially adjoins the application building at the northern corner.

The existing lawful use of the building is predominantly retail with 4no. existing 1-bedroom residential units (located in the eastern corner of the first to fourth floors).

Permission was granted under ref. 19/0440/FUL for the change of use of the upper floors and a small part of the ground floor from retail to residential, for 24no. apartments, and the remainder of the ground floor to offices and a café.

The site also lies within an Environmental Air Quality Management Area and Environmental Smoke Control Area.

The site lies approx. 3.78km from the Exe Estuary Special Protection Area (SPA).

#### **4.0 Description of development**

This application seeks a change of use for part of the basement and ground floors and the majority of the upper floors (where there are a total of 4no. residential units) from retail to residential.

The submitted Planning Statement describes the current application as a resubmission of expired planning consent, ref. 16/0758/FUL.

##### Basement

The basement is proposed to be largely retained for retail use and would involve staff toilets, kitchen and plant. The northern corner would provide storage for 50no. bicycles.

##### Ground

The ground floor is proposed to be largely retained for retail use. 3no. existing double doors would be retained as shop entrances, 3no. existing doorways would be replaced with glazing.

36no. cycle parking spaces are proposed at ground floor level adjacent to no.7 North Street.

A new double door off North Street would be introduced to access the residential entrance lobby, adjacent the door to be retained, closest to no.7, which would allow access to the ground floor cycle store and to the retail service area.

The retained double doors to the left (south-east) would be replaced with louvred double doors to the proposed residential bin store.

A lift and stairwell, with bicycle wheeling ramp, would be located to the rear (south-west) of the entrance lobby.

1no. door would be introduced on the North Street elevation to serve a residential fire escape.

### First

The first floor would be converted entirely to residential use, comprising 8no. apartments, 1no. lift and 3no. stairwells.

### Second

The second floor would be converted entirely to residential use, comprising 8no. apartments, 1no. lift and 2no. stairwells.

### Third

The third floor would be converted entirely to residential use, comprising 9no. apartments including 3no. elements of duplex apartments nos. 22, 24 and 25 arranged over two levels (third and fourth floors)

### Fourth

The fourth floor would be converted entirely to residential use, comprising 6no. apartments including 3no. elements of duplex apartments nos. 22, 24 and 25. Flat nos.27 and 28 would have access to internal roof terraces.

Flat no.28 would be housed in the existing mansard roof extension and would also have a duplex element at fifth floor level including the turret.

An existing pitched roof (above the third floor) running north-west to south-east adjacent the south-west elevation would be replaced with a flat roofed extension containing fourth floor accommodation.

### Fifth

The existing fifth floor roof extension adjoining the turret in the western corner of the planform, that is currently metal clad, would be reconfigured to form part of Flat no. 28. This would have a balcony on the north-east elevation enclosed by a glass balustrade to replace the Victorian style wrought iron railings.

An extension measuring approx. 1.8m by 4.5m would be installed at its western corner serving a curved staircase to the remainder of Flat no.28 on the fourth floor below, replacing an existing external spiral staircase. The north-western elevation of this extension would be curved and fully glazed while the south-eastern elevation would be finished in white render.

There would be a roof terrace with planters above the fourth floor roof conversion that would be accessed from Stairwell No.1 and enclosed by glass balustrades with a metal pergola above.

Solar panels are proposed for the roof slopes facing away from North Street and Fore Street.

#### Upper roof

The pergola above the proposed roof terrace would be covered with solar panels while the turret covering would be retained as existing and the fifth floor extension would have a flat roof covered with zinc.

#### Elevations

##### North-east:

- 3no. new dormer windows (replacing 1no. existing) in the roof slope rear of the Dutch gables and 2no. new windows (in the gable) are proposed at third floor
- Existing treatment to elevation of fifth floor extension adjoining turret would be replaced with structural glass and the element to the right (north-west) covered with zinc cladding and containing 4no. small windows.
- The existing balcony adjacent the turret extension would remain and the metal railings would be replaced with a glazed balustrade.
- There would be an enclosure for the lift and stair access to the fifth floor roof terrace that would be clad with zinc and timber and glazed balustrades to the roof terrace with a painted metal pergola above, which would itself be topped with solar panels.

##### South-west:

- 34no. new grey aluminium windows would be introduced on the first to third floor levels including 3no. angled projecting bay windows on the setback elevation, which would face westwards.
- The fourth floor extension would be almost entirely glazed with some areas of white render.

- The roof terrace (fifth floor level) would have a glazed balustrade and painted metal pergola above, topped with solar panels.

#### South-east:

- The existing balcony adjacent the turret extension would remain and the metal railings would be replaced with a glazed balustrade.
- The existing mansard window at fourth floor level (below the fifth floor balcony) would be replaced by a rooflight of a reduced height.
- The existing vertical elevation of the fifth floor extension would be replaced by an angled window sloping back, by approx. 45 degrees, to the north-west, which would bring the roof of that element into line with the rear (north-west elevation) of the turret.

#### North-west:

- The external lift well in the western corner would be removed and a fourth column of windows would be added (1no. on each floor from first to third) to match with those existing.
- There would be a fourth floor roof conversion, largely glazed with some white render, and with a roof terrace and pergola above on the right (south-west) side.
- There would be a new lift and stairwell enclosure at fourth, fifth and upper roof levels located centrally on this elevation, which would be zinc clad.
- The fifth floor turret extension would be further extended towards the south-west and zinc clad.
- The turret and flag pole would remain as existing.

## 5.0 Supporting information provided by applicant

Documents below received on 08/03/2023 unless stated otherwise:

- 14032 P0502 Rev.B Existing Record Photos
- Air Quality Assessment
- CEMP and supporting Risk Assessment
- CIL Form
- Crime Prevention Statement
- Daylight Statement
- Design and Access Statement
- Drainage Statement for Paternoster House – Revision B, dated 27/03/2023
- Ecological Appraisal
- Energy Statement
- Fire Statement
- Green Infrastructure Statement
- Heritage Assessment Parts 1 and 2
- Noise Impact Assessment ? Air source heat pump noise impact assessment by ACT Acoustics Ltd, dated 03/05/23
- Planning Statement
- Statement of Community Involvement

- Urban Design Consultation Comments, received 09/05/23
- Viability Assessment
- Waste Management Statement Rev.B

## 6.0 Relevant planning history

Reference	Status	Address	Description	Decision
23/0187/DIS	Condition(s) Fully Discharged	182-184 Fore Street St Davids Exeter Devon EX4 3AX	Discharge condition 4 (Construction and Environment Management Plan) of permission 19/0440/FUL - Change of use of shops and apartments to cafe, offices and 24 apartments, including roof extension.	15/03/2023
19/0440/FUL	Permitted	1-6 North Street And 182-184, 185 And 186 Fore Street Exeter Devon	Change of use of shops and apartments to cafe, offices and 24 apartments, including roof extension.	23/03/2020
16/0758/FUL	Permitted	1-6 North Street And 182-184, 185 And 186 Fore Street Exeter Devon	Creation of 24 new dwellings (total of 28 dwellings including the existing) within vacant building formerly used as retail space. To include 230 square metres of extension at the fourth & fifth floors. Retail space to be combined on the ground the basement	21/04/2017

## 7.0 Consultations

Below is a summary of the consultee responses. Where more than one response was received, the latest response has been summarised. All consultee responses, including earlier responses, can be viewed in full on the Council's website.

**CIL and S106 Officer:**

Comments received 02/06/2023  
Development is CIL liable

**Devon and Cornwall Police Designing Out Crime Officer**

Comments received 11/04/23  
No objections subject to conditions

**Devon and Somerset Fire and Rescue Service**

Comments received 06/04/23  
Concerns relating to fire safety, it is unlikely the current plans would be acceptable.  
[Officer note: this would be addressed under Building Regulations]

**Devon Archaeological Society:**

Comments received 08/05/23  
No objections subject to conditions

**Devon Education**

Comments dated 19/04/23  
No financial contributions would be sought

**Ecology:**

Comments received 03/07/2023  
No objections subject to conditions

**Environmental Health:**

Comments received 04/05/2023  
No objections subject to conditions

**Exeter Civic Society:**

None received

**Exeter Cycling Campaign:**

Comments received 13/04/23  
Concerns relating to quantum, location and type of cycle storage, lift access for bicycles, and lack of electric cycle charging points.

**Health and Safety Executive:**

Comments received 27/03/23  
Not a relevant building, no fire statement required

**Highways Authority (Devon County Council):**

Comments received 22/05/23  
No objections subject to conditions

**Housing:**

Comments received 12/07/2023

Viability accepted and no Affordable Housing contribution required

**Living Options (Disability Access Champion):**

None received

**Net Zero & Business:**

Comments dated 26/06/23:

No objections

**NHS Devon:**

Comments received 05/04/2023:

No objections subject to S106 agreement for developer contribution to healthcare provision

**South West Water:**

Comments dated 28/03/23:

No objections subject to conditions

**Urban Design and Landscape Officer:**

Comments received 09/05/23

Some initial concerns upheld relating to external design details. [Officer note: It is the Officer's view that these concerns can be overcome by conditions]

**Waste and Recycling Team:**

Comments received 21/03/23:

No objections

## **8.0 Representations**

None received.

## **9.0 Relevant policies**

### National Planning Policy and Guidance

National Planning Policy Framework (NPPF) (2021) – in particular sections:

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places

Planning Practice Guidance (PPG):

Consultation and pre-decision matters



Design: process and tools  
Effective use of land  
Fire safety and high-rise residential buildings  
Housing needs of different groups  
Planning obligations  
Use of planning conditions

National Design Guide (MHCLG, 2021)  
Biodiversity duty: public authority duty to have regard to conserving biodiversity  
(Natural England and DEFRA, 13 October 2014)  
Technical housing standards – nationally described space standard (DCLG March 2015) (NDSS)

### Development Plan

Core Strategy (Adopted 21 February 2012)

CP5 - Meeting Housing Needs  
CP9 - Transport  
CP10 - Meeting Community Needs  
CP11 - Pollution and Air Quality  
CP12 - Flood Risk  
CP13 - Decentralised Energy Networks  
CP14 - Renewable and Low Carbon Energy  
CP15 - Sustainable Construction  
CP16 - Green Infrastructure, Landscape and Biodiversity  
CP17 - Design and Local Distinctiveness  
CP18 - Infrastructure

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development  
C2 – Listed Buildings  
T1 – Hierarchy of Modes  
T2 – Accessibility Criteria  
T3 – Encouraging Use of Sustainable Modes  
T9 – Access to Buildings by People with Disabilities  
T10 – Car Parking Standards  
LS1 – Landscape Setting  
EN2 – Contaminated Land  
EN3 – Air and Water Quality  
EN4 – Flood Risk  
EN5 – Noise  
DG1 – Objectives of Urban Design  
DG2 – Energy Conservation  
DG4 – Residential Development

DG7 – Crime Prevention and Safety

Other Material Considerations

Five Year Housing Land Supply Statement (May 2023)

The Exeter Plan – Outline Draft Plan (September 2022)

S1 – Spatial strategy

S2 – Liveable Exeter delivery principles

CE1 – Net zero Exeter

STC2 – Active and sustainable travel in new developments

STC3 – Active travel proposals

NE3 – Biodiversity

NE4 – Green infrastructure

D1 – Design principles

Exeter City Council Supplementary Planning Documents:

Affordable Housing SPD (April 2014)

Exeter Air Quality Action Plan 2019-2024

Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)

Residential Design SPD (September 2010)

Sustainable Transport SPD (March 2013)

Trees and Development SPD (Sept 2009)

## **10.0 Human rights**

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

The consideration of the application in accordance with Council procedures will ensure that views of all those interested are considered. All comments from interested parties have been considered and reported within this report in summary with full text available via the Council's website.

It is acknowledged that there are certain individual properties where there may be some adverse impact (e.g. noise) and this will need to be mitigated as recommended through imposing conditions to ensure that there is no undue impact on the home and family life for occupiers. However, any interference with the right to a private and family life and home arising from the scheme as result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the city and wider area and is proportionate given the overall benefits of the scheme, including transport infrastructure and economic benefits.

Any interference with property rights is in the public interest and in accordance with the Town and Country planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## **11.0 Public sector equalities duty**

As set out in the Equalities Act 2010, all public bodies in discharging their functions must have “due regard” to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

## **12.0 Planning assessment**

### 1. Principle of Proposed Development

Local Plan First Review Saved Policy AP1 states:

*Development should be designed and located to raise the quality of the urban and natural environment and reduce the need for car travel. Proposals should be located where safe and convenient access by public transport, walking and cycling is available or can be provided.*

Local Plan First Review Saved Policy AP2 states:

*Priority will be given to meeting development needs on previously-developed land and within existing centres...*

Local Plan First Review Saved Policy S3 states:

*The change of use of ground floor retail (class a) premises will not be permitted in the primary and secondary shopping areas of the city centre and in the district and local centres if it would harm the vitality and viability of the centre.*

Local Plan First Review Saved Policy H1 states:

*Proposals for housing development will be assessed against the following search sequence:*

*(i) previously-developed land, conversions and infill within the urban areas;*

Local Plan First Review Saved Policy H2 states:

*Priority will be given to meeting housing needs on previously-developed land by ..., permitting residential development at the highest density that can be achieved without detriment to local amenity, the character and quality of the local environment and the safety of local roads...*

*(f) the conversion to residential use of buildings, which are vacant, under-used or in poor condition, including historic buildings, offices and vacant floorspace above offices and shops...*

Local Plan First Review Saved Policy DG1 states: *Development should...*

*(e) contribute to the provision of a compatible mix of uses which work together to create vital and viable places;*

Core Strategy policies CP1, CP2 and CP3 promote the provision of employment and retail provision.

The Council's latest position on the five year housing land supply (5YHLS), dated May 2023, is that the supply of deliverable homes falls short of the five year housing requirement by 457 homes and represents a supply of four years and four months for the period commencing 1 April 2023.

The application site lies within the City Centre and Secondary Shopping Area within an existing building, which was primarily in retail use but has been underused for a number of years and wholly vacant since December 2022.

The proposed development involves the retention of the existing retail use across most of the ground floor and basement and for the change of use of most of the upper floors to residential, resulting in 24no. additional and retention of 4no. residential units.

The submitted Planning Statement notes that the current application represents a resubmission of consent ref. 16/0758/FUL for the creation of 28no. residential units including the 4no. existing units, which is understood to have expired.

There is also another permission for this application site, ref. 19/0440/FUL, for the creation of 24no. residential units including the 4no. existing residential units. The applicants state that this permission is extant but no evidence has been submitted.

It is the Officer's view that the permissions granted at this site for one similar and one virtually identical schemes represent a material consideration in this case.

The Local Plan and Core Strategy have not been changed since the date of these consents. The National Planning Policy Framework (NPPF) has been revised since those dates. However, the policies have not altered significantly and the presumption in favour of sustainable development remains.

The proposed development would bring a vacant building back into use and would result in the provision of 28no. residential units, together with the retention of retail space within the secondary shopping centre.

It is recognised that this scheme would have a higher density and result in a greater quantum of residential units than the most recent consent for the site, which is considered a benefit in terms of efficient use of land and the contribution towards the housing targets.

For the above reasons, the scheme is considered acceptable in principle.

## 2. Impact on Character and Appearance including Landscape

Local Plan First Review Saved Policy DG1 states: *Development should:*

- (d) be at a density which promotes Exeter's urban character and which supports urban services;*
- (g) ensure that the volume and shape (the massing) of structures relates well to the character and appearance of the adjoining buildings and the surrounding townscape;*
- (h) ensure that all designs promote local distinctiveness and contribute positively to the visual richness and amenity of the townscape;*
- (i) use materials which relate well to the palette of materials in the locality and which reinforce local distinctiveness.*

Local Plan First Review Saved Policy DG3 states:

*Commercial development should:*

- (a) face the main elevations, ancillary office uses and entrances of buildings onto the public realm...*
- (e) locate areas of external storage in unobtrusive positions screened from public places.*

Local Plan First Review Saved Policy LS1 states:

*Development which would harm the landscape setting of the city will not be permitted. Proposals should maintain local distinctiveness and character and:*

*(b) be concerned with change of use, conversion or extension of existing buildings:*

Core Strategy policy CP16 seeks to protect and enhance green infrastructure.

Core Strategy policy CP17 requires a high standard of sustainable design that is resilient to climate change and complements or enhances Exeter's character, local identity and cultural diversity.

NPPF paragraph 126 states:

*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities...*

The submitted Planning Statement notes that the current application represents a resubmission of consent ref. 16/0758/FUL for the creation of 28no. residential units including the 4no. existing units, which is understood to have expired.

This permission included the following elements that are also proposed here:

- 34no. new windows on south-west elevation including the 3no. angled projecting window bays;
- Fourth floor roof conversion, with terrace above, topped by a pergola with solar panels on pergola roof;
- Removal of external stair well at western corner and introduction of fourth column of windows on north-west elevation;
- Lift and staircase enclosure at fourth, fifth and upper roof level;
- Replacement of mansard window at fourth floor level on south-east elevation with smaller rooflight;
- Glazing to south-east and north-east fifth floor elevations of turret extension, with an element of zinc cladding, introduction of 4no. small windows, and increase in width towards south-west;
- 2no. new windows in north-east gable and 3no. new mansard windows (replacing 1no. existing) in north-east mansard roof at fourth floor.

There is also a permission for this application site, ref. 19/0440/FUL, for the creation of 24no. residential units including the 4no. existing residential units. This is confirmed in an email dated 26/06/23 as extant although no evidence of this has been submitted.

The later scheme, ref. 19/0440/FUL, included some of the following elements among others:

- Replacement of existing plain tiled third floor mansard roof and fourth floor pitched roof elements with a largely flat roofed, three storey roof extension clad in diamond-shaped zinc tiles, with a number of windows and glazed areas on the north-east and south-east elevations

- A high quantum of new windows on the south-west elevation and 6no. new Juliet balconies on the north-west elevation.

The above permissions represent material considerations in this case.

It is the Officer's view that the visual impact arising from the expired scheme, ref. 16/0758/FUL, and the current scheme, is less significant than that resulting from the later scheme, ref. 19/0440/FUL. This greater impact would arise from the proposed fifth floor roof extension, replacement of the existing plain tiles with zinc diamond tiles and insertion of a high quantum of roof level windows including some large areas of glazing.

The Council's Urban Design and Landscape Officer has been consulted on this application and raised several initial concerns, namely:

- a) the introduction of windows on the south-west elevation would prevent the adjacent plot from being redeveloped to improve the visual amenity arising from the unsympathetic infilling following bomb damage during the war and to make efficient use of space within the city centre;
- b) further detail of the constructional design is required, particularly with regard to the turret extension and new windows on the north-east gable, among other elements;
- c) proposed internal partitions or cupboards should not obstruct windows;
- d) the retention of the fifth floor extension would fail to restore the elegance of the turret and the angled, glazed south-east elevation would have an awkward appearance, cutting across the turret on the south-west side;
- e) the pergola would have an adverse visual impact in long distance views;
- f) the structural design to open up internal spaces does not seem complete;
- g) basement cycle parking would discourage cycling;
- h) no visitor, staff or customer cycle parking is proposed;
- i) further details required for the rooftop terrace and internal rooftop terraces required in terms of landscaping and planting for visual (and future occupiers') amenity, and drainage.

In terms of point c), amended plans have been submitted during the course of this application together with a Supplementary Planning Information – Urban Design Statement by Kirkham Board Associates, dated 03/05/23. This notes that:

- The internal partitions between Flats 3 and 4 and between 11 and 12 have been moved to avoid intersecting with the windows;
- The internal partitions within Flats 22 and 23 have been moved to intersect with the stone window mullion and avoid protruding into the glazed area;
- Spandrel panels would be used to conceal the intersection of proposed internal partitions and cupboards with external glazing and maintain the appearance of the windows.

Following receipt of the amended plans, the Urban Design Officer has withdrawn the initial concerns referenced in points a), c) and f).

While the remaining concerns of the Council's Urban Design Officer are noted, it is the Officer's view that the elements referenced in points a), d) and e) would not be considered reasons for refusal in this case, having been found acceptable under the previous consent, ref. 16/0758/FUL.

With regard to the 2no. new windows proposed for the north-east gable, no details of the proposed window surround have been submitted. It is the view of Officers' that a soldier course above the new windows using bricks recycled from the formation of the proposed openings could be used to integrate the alterations with the existing fenestration. It is considered reasonable to impose a condition in this regard.

Notwithstanding this, it is considered reasonable to impose conditions requiring additional details relating to the visual appearance of the scheme, as recommended by the Urban Design Officer in points b) and i) above, to also include the solar panels and pergola.

Cycle parking is assessed later in this report.

For the above reasons, the proposed scheme is considered acceptable in this regard.

### 3. Impact on Residential Amenity

Local Plan First Review Saved Policy EN5 states:

*Noise-generating development will not be permitted if it would be liable to increase adversely the noise experienced by the users of existing or proposed noise-sensitive development nearby.*

Local Plan First Review Saved Policy DG4 states:

*Residential development should:*

- (a) Be at the maximum feasible density taking into account site constraints and impact on the local area;*
- (b) Ensure a quality of amenity which allows residents to feel at ease within their homes...*

Local Plan First Review Saved Policy DG7 states:

*The design of development should aim to achieve a safe and secure environment.*

*Proposals should:*

- (a) ensure pedestrian routes and public spaces are overlooked and subject to natural surveillance;*
- (b) provide enclosure of properties, so that private spaces are well defined and fulfil the role of defensible space;*
- (c) ensure that lighting is located and designed in such a way as to deter and reduce the fear of crime;*



*(d) ensure that schemes for landscape design, including new planting, do not create opportunities for crime and that, where appropriate, species of plants are used to deter criminal or anti- social behaviour;*

*(e) integrate crime prevention measures in an unobtrusive manner, such that the fear of crime is not raised, and that there is no detrimental effect upon townscape and amenity.*

NPPF paragraph 174 e) states...

*Planning .. decisions should contribute to and enhance the natural and local environment by.. preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of .. noise pollution...*

NPPF paragraph 185 a) states:

*Planning .. decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions .., as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: ...mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life...*

NPPG Noise states:

- *Noise needs to be considered when development may create additional noise...*

Environmental Health has been consulted on this application and has raised concerns as follows:

- a) With regard to future occupiers' amenity, mitigation is likely to be required to allow ventilation of the proposed dwellings whilst avoiding smoke and/or odours from nearby commercial kitchen extractors as well as for any noise impact arising from the required ventilation plant;
- b) With regard to neighbouring and future occupiers' amenity, mitigation is likely to be required for the noise impact of any ventilation system as above;
- c) CEMP required to protect neighbouring amenity.

Following the submission of additional information and subject to conditions, the Environmental Health Officer now has no objections relating to the above initial concerns.

#### Occupants of neighbouring dwellings

The nearest dwellings to the site include:

- Flats 1 and 2, no.49A North Street, opposite the application site
- Nos. 187-189 High Street, opposite the application site
- Nos. 7-8 North Street, adjacent, north-west of site
- Nos. 177-181 Fore Street, adjacent, south-west of site

The proposed development comprises the retention of existing retail space at ground and basement levels, the retention of 4no. residential units on the upper floors, and the change of use of the remainder of the upper floors and a small quantum of the ground and basement levels from retail to residential use.

By reason that the proposal comprises the conversion of an existing building, no loss of outlook would be considered to ensue with regard to the nearest neighbouring dwellings.

In terms of privacy, the majority of windows involved are existing windows to be retained, from which users of the building would have opportunity to overlook any neighbouring dwellings.

The proposed new windows on the south-west elevation would overlook a ground floor roof and blank elevation, while those on the north-west elevation would be adjacent to existing windows. As such, the latter would not be considered to result in any harm over and above the existing situation.

In addition, a virtually identical scheme, ref. 16/0758/FUL, was found acceptable in terms of the impact on the residential amenity in terms of privacy. As such, this aspect of the scheme is considered acceptable.

Given that the existing lawful use of the site comprises both retail and residential uses, the proposed usage would not, in itself, be considered to result in any adverse impact on the residential amenity of the neighbouring properties in terms of noise or other harm.

In terms of the construction phase, any adverse noise impacts would be addressed via conditions.

Given that the scheme would include air source heat pumps (ASHP) to be sited at ground floor level in the retail service yard, it is considered reasonable to impose a condition to limit noise to protect the neighbouring and future occupiers' residential amenity.

### Future Occupiers

A Daylight Statement has been submitted to accompany this application, which notes:

- All habitable rooms on the proposed development have natural light from a window on the external fabric of the building.
- A daylight calculation for the worst-case scenario of the proposed development demonstrates that natural light levels within the living room space in apartment 3 and apartment 4 on the first floor would be acceptable.

A Noise Impact Assessment has been submitted to accompany this application, which notes:

*The internal noise levels can be satisfied provided that the acoustic performance of the existing facade is improved, however further consideration should be given to ventilation as the project progresses.*

A Crime Prevention Statement has been submitted to accompany this application, which notes:

- Only residents would have access into the building.
- CCTV would be installed to monitor any unauthorised access into the building.
- An internal lobby door at the front of the building would be installed to allow for deliveries into a secure lobby
- The front door and side access door would be of high security

The Designing Out Crime Officer has been consulted on this application and has no objections subject to a number of conditions.

A Fire Statement has been submitted to accompany this application.

The Fire and Rescue Service has been consulted on this application and has raised concerns relating to insufficient information on fire safety measures.

However, fire safety measures would be addressed via Building Regulations and this aspect of the scheme lies beyond the remit of this Planning assessment.

In terms of internal space, the nationally described space standard supersedes the Council's Residential Design SPD. This sets out the minimum space standards at as follows, in Table 1 below.

Table 1. Required and proposed internal space

Unit	Bed/People	GIA required sqm	GIA proposed sqm	Living space require*	Living space proposed sqm	Bedroom required sqm	Bedroom 1 proposed sqm	Bedroom 2 proposed sqm
1	2 bed 3p	61	63	25	26.1	Double bed min. 11.5	10.8	10.6
2	2 bed 4p	70	70	27	28.3		14.3	12.8
3	2 bed 4p	70	70	27	29.7		12.8	11.3
4	1 bed 2p	50	64	23	33.5	Single bed min. 7.5	14.8	-
5	1 bed 2p	50	49	23	25.4		12.8	-

6	1 bed 1p	39	48	23	23.0		12.8	-
7	2 bed 4p	70	75	27	32.0		15.3	12.0
8	2 bed 4p	70	70	27	31.2		12.8	11.8
9	2 bed 3p	61	63	25	26.1		10.8	10.6
10	2 bed 4p	70	70	27	28.3		14.3	12.8
11	2 bed 4p	70	70	27	29.7		12.8	11.3
12	1 bed 2p	50	64	23	33.5		14.8	-
13	2 bed 3p	61	65	25	25.4		12.8	9.5
14	1 bed 2p	50	48	23	23.0		12.8	-
15	2 bed 4p	70	75	27	32.0		15.3	12.0
16	2 bed 4p	70	70	27	31.2		12.8	11.8
17	2 bed 3p	61	63	25	26.1		10.8	10.0
18	2 bed 4p	70	75	27	32.1		14.3	12.8
19	2 bed 4p	70	70	27	29.1		12.8	11.3
20	1 bed 2p	50	64	23	33.5		14.8	-
21	2 bed 3p	61	65	25	25.4		12.8	9.5
22	2 bed 4p 2 storey	79	75	27	27.0		14.6	12.8
23	2 bed 4p	70	75	27	30.0		15.6	12.0
24	2 bed 4p 2 storey	79	72	27	29.0		13.4	12.8
25	2 bed 4p 2 storey	79	78	27	29.1		12.8	10.2
26	2 bed 4p	70	74	27	34.0		13.8	12.8
27	2 bed 4p	70	80	27	41.0		14.4	9.5
28	2 bed 4p 2 storey	79	82	27	27.6		15.9	11.5

\* This is taken from the SPD as the NDSS does not provide min. living space figures

The table above shows that a number of the dwellings and rooms proposed would be undersized, (in red text), contrary to the minimum space standards set out in the Residential Design SPD.

However, in this case, it is acknowledged that the scheme comprises the conversion of an existing building rather than a new build. Further, a virtually identical scheme was found acceptable under ref. 16/0758/FUL, which was assessed against the same policy framework.

The applicant has confirmed by email dated 29/06/23 that the proposed dwelling and room sizes match those approved under consent ref. 16/0758/FUL.

For the above reasons, it is the Officer's view that, in this case, the failure of a small percentage of the proposed dwellings and/or bedrooms to meet the minimum internal space requirements is not considered sufficient grounds on which to refuse this application.

In terms of outdoor amenity space, the Council's Residential Design SPD states at paragraph 7.11:

*A minimum of 20 square metres of communal open space per flat must be provided.*

Paragraph 7.14 states:

*Roof gardens may be provided as part of the design of buildings accommodating flats. To allow them to count towards the 20 square metre provision they will need to be of a high quality landscape design including specific measures to accommodate and maintain plants. Direct access to them will be provided from the flats they are serving.*

For the 24no. new dwellings, the outdoor amenity space required would equate to 480 sqm.

In this case, 3no. roof terraces would be provided measuring approx. 193 sqm and would include some landscaping in the form of planters. As noted above, a condition would be applied with regard to the landscaping detail.

While it is recognised that this outdoor amenity space would fall short of the requirement, it must be acknowledged that this application, as noted elsewhere in this report, comprises a conversion and has also been found acceptable in this regard under a previous application, ref. 16/0758/FUL.

It is also acknowledged that the site lies within a City Centre location that has access to green infrastructure by foot and sustainable transport modes, with the nearest public green space at Cathedral Green at an approx. distance of 62m.

For these reasons, the shortfall in outdoor amenity space is not considered sufficient grounds for refusal in this case.

With regard to privacy, the Council's Residential Design SPD states at paragraph 7.16:

*A minimum back-to-back distance of 22 metres is required between habitable room windows.*

It is acknowledged that the separation gaps between the subject and neighbouring buildings measures approx. 10m to the north-east and south-west, which would be less than that required under the SPD to avoid overlooking or overbearing impact for the future occupiers of the proposed conversion.

As noted above, the proposal comprises the conversion of an existing building, which comprises some residential use and whereby the relationships with neighbouring buildings, also partly in residential use, are already established.

The residential amenity of future occupiers in terms of privacy and outlook was found acceptable under the previous consent, ref. 16/0758/FUL. As such, this element of the scheme has not been subject to a full assessment here and would not be considered a reason for refusal in this case.

In terms of ventilation for the proposed dwellings, it is considered reasonable to impose a condition requiring mitigation for any adverse impacts arising from the smoke and/or odours produced by nearby commercial kitchen extractors as well as for any noise impact arising from any ventilation plant to be installed.

For the above reasons, the scheme is considered, on balance, to be acceptable in this regard, subject to conditions.

#### 4. Impact on Heritage

Local Plan First Review Saved Policy C1 states:

*Development within or affecting a conservation area (including changes of use, alterations and extensions) must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.*

Local Plan First Review Saved Policy C2 states:

*Development (including changes of use, alterations and extensions) which affects a listed building must have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.*

Local Plan First Review Saved Policy C3 states:

*Development (including changes of use, alterations and extensions) which affects a building of local importance... will not be permitted where it harms the architectural or historic value of the building.*

Core Strategy policy CP17 requires development in the City Centre to:

- *enhance the city's unique historic townscape quality;*
- *protect the integrity of the city wall and contribute positively to the historic character of the Central Conservation Area.*

NPPF paragraph 199 states:

*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

NPPF paragraph 203 states:

*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application....*

The application site lies within the Central Conservation Area, and the subject building is locally listed and, therefore, comprises a non-designated heritage asset.

The site lies approx. 147m from the Grade I listed Cathedral Church of St Peter and approx. 51m to the nearest Scheduled Monument, Part Of The Roman Town Of Exeter, Beneath Cathedral Green, which also contains Grade II\* listed Devon County War Memorial and Processional Way.

The closest listed buildings to the site include 187 and 188, High Street adjacent the application site and 70 and 71, High Street diagonally opposite, which are both Grade II listed.

The Council's Urban Design Officer has been consulted on this application and their concerns are outlined in the previous section.

A Heritage Statement, dated 13/02/23, has been submitted to accompany this application, which notes, among other points, that:

- Paternoster House was purpose-built in 1880 for retail use;
- The building is locally listed with some architectural interest that makes a positive contribution to conservation area;
- Roof top and cupola can be seen in medium and long views including from the River Exe flood plain and in the setting of the Grade I listed Exeter Cathedral;
- The heritage significance lies mainly in its historic role, maintaining the medieval settlement pattern in one of the city's oldest streets;
- The modern shopfronts and signage, together with the rooftop alterations, detract from its original design;
- The proposal would enhance this landmark building.

The proposal predominantly comprises internal works to convert the upper floors, largely in retail use, albeit redundant, to residential and to reconfigure the ground and basement floors for both retail and residential uses.

The scheme also involves changes to the fenestration and roof alterations.

The proposal would be considered beneficial in heritage terms by bringing an underused and deteriorating building of local significance back into a viable use in what is likely to be the long term, thereby indicating its future conservation.

Some of the alterations proposed, such as the roof extension, roof terrace, solar PV pergola, retention and extension of the turret level accommodation, and insertion of new windows, would be considered to result in an adverse impact.

While it is acknowledged that these elements would be visible in short and medium views, within the setting of nearby listed buildings and within the conservation area,

the visual impact would be relatively modest. In addition, these elements have previously been found acceptable under consent ref. 16/0758/FUL.

As noted in the previous section, it is the view of Officers that any adverse heritage impact can be addressed via conditions requiring further design and construction details.

For these reasons, and, given that the subject building itself does not comprise a designated heritage asset, the proposal is not considered to result in harm in heritage terms.

In terms of archaeology, the site lies within an Area of Archaeological Importance.

The Devon Archaeological Society has been consulted on this application and has no objections subject to conditions.

Given that the scheme largely comprises the conversion of an existing building, with little to no ground works proposed, the scheme would not be considered to give rise to archaeological harm.

Overall, any adverse impacts would be considered to be outweighed by the public benefits of bringing an underused heritage asset back into viable use and conserving the significance of the conservation area.

Notwithstanding the above, it is considered reasonable to impose conditions to control the materials and construction details, and the potential archaeological impact.

As such, the proposed development is considered acceptable in heritage terms.

## 5. Highways, Access and Parking

Local Plan First Review Saved Policy T1 states:

*Development should facilitate the most sustainable and environmentally acceptable modes of transport...*

Local Plan First Review Saved Policy T2 states:

*Residential development should be located within walking distance of a food shop and a primary school and should be accessible by bus or rail to employment, convenience and comparison shopping, secondary and tertiary education, primary and secondary health care, social care and other essential facilities.*

Local Plan First Review Saved Policy T3 states:

*Development should be laid out and linked to existing or proposed developments and facilities in ways that will maximise the use of sustainable modes of transport. Proposals should ensure that:*



*(b) suitable cycle parking provision is provided in accordance with the standards set out in schedule 2;*

*(f) the particular needs of people with disabilities are taken into account.*

Local Plan First Review Saved Policy T9 states:

*Proposals for the development, change of use, alteration or extension of non-domestic buildings, particularly those open to the public, will only be permitted if provision is made for safe and convenient access by people with disabilities.*

Local Plan First Review Saved Policy H2 supports:

*(d) Development of sites in the core area of the city centre without provision for motor vehicle parking but with secure cycle parking facilities, car parking provision for disabled people and space for deliveries...*

NPPF paragraph 110 promotes sustainable transport modes and seeks safe and suitable access to the site for all users and that any significant impacts on the transport network (in terms of capacity and congestion), or on highway safety, to be cost effectively mitigated to an acceptable degree.

NPPF paragraph 111 states:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

NPPF paragraph 113 states:

*All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.*

County Highways has been consulted on this application and has no objections subject to conditions.

Environmental Health has been consulted on this application and has no objections subject to conditions.

Exeter Cycling Campaign has been consulted on this application and has concerns relating to quantum, location and type of cycle storage, lift access for bicycles, and lack of electric cycle charging points.

A Construction Management Plan, dated 10/02/23, and a Transport and Highways Technical Note, dated 10/03/23, have been submitted with this application. The latter notes:

- This information was produced for 23/0187/DIS in response to the DCC Highway comments regarding the CEMP and was found acceptable.

- The details relate to highways impacts of scaffolding during the construction phase.

A Transport Statement, dated 12/04/23, has been submitted during the course of this application, which notes:

- The scheme would be a car-free development;
- The site lies within the city centre with good access to amenities on foot and to sustainable transport modes including Co-Cars and Co-Bikes stations at an approx. 5min walking distance;
- Secure and covered cycle storage is proposed;
- There is parking available for loading / deliveries on North Street, with space for approximately 13 parked vehicles. In addition, there are two disabled parking bays provided on North Street, located approximately 85m from the site.

The Supplementary Planning Information – Urban Design Statement by Kirkham Board Associates, dated 03/05/23, submitted during the course of this application notes the following amendments:

- An additional secure, covered parking area for 36no. cycles would be provided at ground floor level, with space for non-standard bicycles;
- A bike ramp would be included in the stairwell from ground to basement level to access the cycle storage area.

As noted above, this development would be car-free and would be sited within the City Centre with good access to amenities on foot and to sustainable transport modes.

Paragraph 8.1.1. of the Sustainable Transport SPD requires a Travel Plan for residential developments of more than 20no. units. No travel plan has been submitted with this application.

However, for the reasons noted above, the scheme would not be considered to give rise to a significant impact in transport terms. It is the Officer's view, therefore, that, in line with paragraph 113 of the NPPF, a Travel Plan would not be required in this case.

In line with paragraph 6.3.2 of the Sustainable Transport SPD, parking for loading/deliveries and disabled parking is available near the site.

The scheme as amended would provide secure parking for 86no. cycles, including non-standard types, with 36no. on the ground floor and 50no. at the basement level, which would have lift and ramp access.

The Sustainable Transport SPD sets minimum cycle parking standards and requires the following:

- 1no. cycle parking space per 1-2 bedroom dwelling. As such, 28no. would be required in this case for residents.

- 2no. additional spaces would be required for visitors.
- 1no. staff cycle space per 350 sqm of net retail floorspace (minimum 4 spaces). The net retail floorspace would measure approx. 515 sqm. As such, 4no. would be required for staff.
- 4no. additional spaces would be required for customers.

The cycle parking requirement would, therefore, total 38no. The scheme would provide in excess of this quantum and is considered acceptable in this regard subject to conditions.

The residential element of the development would be accessed via double doors into an entrance lobby off North Street, with a door on the right hand side to access the bike storage areas, and a door on the left to access the residential bin store, also accessible off the entrance lobby internally. To the rear of the entrance lobby would be a concierge area and the lift and stairwell.

The retail element would be accessed by 3no. retained double doors off North Street and Fore Street, with access to the service area and basement via a staff entrance also off North Street.

In terms of accessibility, Living Options (Disability Access Champion) have been consulted on this application and no comments have been received.

The Planning Statement submitted in support of this application notes that 23no. of the proposed 28no. dwellings would be fully accessible by wheelchair users. Of the remaining 5no. dwellings, 3no. would be partially accessible by wheelchair users, with some of the accommodation accessible only by stairs.

As such, the proposed access arrangements and accessibility arrangements for disabled residents, staff and visitors are considered acceptable.

The proposal is not considered to give rise to harm in regard to highways safety or the road network, given that the scheme would be car free and the site is considered sustainable in transport terms.

For the above reasons, the proposal is considered, subject to conditions, acceptable in this regard.

## 6. Impact on Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Local Plan First Review Saved Policy LS2 states:

*Development that would harm the integrity of a RAMSAR site, Special Protection Area or Special Area Of Conservation, or which conflicts with the conservation objectives for such a site, will not be permitted.*

Core Strategy policy CP16 seeks to protect and enhance biodiversity.

Core Strategy policy CP17 requires development to:

*Enhance the biodiversity of the City Centre and improve the links to the green infrastructure network.*

NPPF paragraph 174 d) states:

*Planning policies and decisions should contribute to and enhance the natural and local environment by: ...minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...*

NPPF paragraph 180 d) states:

*...opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

A 10% Biodiversity Net Gain (BNG) will become mandatory under the Environment Act 2023 from November 2023.

The site lies approx. 3.78km from the Exe Estuary Special Protection Area (SPA).

The Council's Ecology Officer has been consulted on this application and has no comments subject to conditions.

An Ecological Appraisal, dated February 2023, has been submitted with this application, which notes that:

- The latest surveys were undertaken in 2022
- Limited evidence of bat or bird presence other than feral pigeons and 2no. common pipistrelles;
- A licence will be required from Natural England to allow the works to demolish the roofs;
- The site is located within the 10km radius of the SPA Recreation Zone of the Exe Estuary;
- A financial contribution per new dwelling would be required to mitigate increased recreational impacts;
- Mitigation will be required for bats and birds during the construction and operational phases.

A Green Infrastructure Statement, dated March 2023, has been submitted with this application. This notes that:

- The site lies within the urban area and is 200m from the nearest park;
- Green infrastructure is accessible by sustainable transport modes;
- The proposal includes 9no. bat boxes and 18no. bird bricks/boxes.

The proposal largely comprises internal works and alterations to fenestration. However, the development would involve the removal of existing roof elements and extensions at roof level.

The scheme would also result in 24no. additional dwellings within the 10km radius of the SPA Recreation Zone of the Exe Estuary.

With reference to The Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature of the development it has been concluded that an AA is required in relation to the potential impact on the Exe Estuary Special Protection Area (SPA).

This AA has been carried out and concludes that the development could have an impact in combination with other residential developments primarily associated with recreational activity of future occupants. However, this impact will be mitigated in line with the South-east Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils, and Exeter City Council (with particular reference to Table 26).

An appropriate contribution will be secured from the development towards implementing the non-infrastructure measures within the mitigation strategy, thereby reducing the impacts of the development to a level where the integrity of the European sites will not be adversely affected and the conservation objectives of the SPA are achieved.

Coming to biodiversity net gains, it is acknowledged that the application site lies within the City Centre, and is relatively constrained with little to no external space.

Given the urban character of the area and the nature of the proposal, being the redevelopment of an existing building, the proposed biodiversity enhancements are considered acceptable, subject to conditions.

The proposed alterations at roof level would give rise to an adverse impact affecting protected species. However, the proposed mitigation measures are considered acceptable, subject to conditions.

Overall, the scheme is considered acceptable in this regard.

## 7. Contaminated Land

Local Plan First Review Saved Policy EN2 requires identification and mitigation of any likely contaminated land prior to development.

In this case, the proposal involves the redevelopment of an existing building, with predominantly internal works and some fenestration and rooftop alterations.

The site is not identified as potential contaminated land and, given that no ground works are proposed, this aspect of the scheme is considered acceptable.

## 8. Impact on Air Quality

Local Plan First Review Saved Policy EN3 states:

*Development that would harm air or water quality will not be permitted unless mitigation measures are possible and are incorporated as part of the proposal.*

Core Strategy policy CP11 states:

*Development should be located and designed so as to minimise and if necessary, mitigate against environmental impacts.*

The site lies within an Air Quality Management Area.

An Air Quality Assessment, dated February 2023, has been submitted with this application. This notes that:

- the proposal would not contribute to air pollution during the operational phase by reason that the scheme would be car-free and would include electric boilers for domestic heating, air source heat pumps and roof top solar panels;
- There would be a likelihood of dust and some vehicle emissions during the construction phase;
- With mitigation in place, the construction effects are judged to be not significant.

As such, the proposed development would be considered acceptable in this regard, subject to conditions.

## 9. Flood Risk and Surface Water Management

Local Plan First Review Saved Policy EN4 states:

*Development will not be permitted if:*

- (a) it would increase the likelihood of flooding*
  - (i) by reducing the capacity of, or increasing flows within, a flood plain, or*
  - (ii) through the discharge of additional surface water, or*
  - (iii) by harming flood defences;*
- (b) it would be at risk itself from flooding;*
- (c) it would require additional public finance for flood defence works;*
- (d) adequate provision is not made for access to watercourses for maintenance;*
- (e) it would threaten features of landscape or wildlife importance by reducing the recharge of local water tables.*

Core Strategy policy CP11 states:

*Development should be located and designed so as to minimise and if necessary, mitigate against environmental impacts.*

Core Strategy policy CP12 seeks to reduce flood risk and promotes Sustainable drainage systems (SuDS).

Core Strategy policy CP17 requires a high standard of sustainable design that is resilient to climate change.

A Drainage Statement, Rev.B, dated 27/03/23, has been submitted with this application, which notes that:

- the only possibility for surface water drainage is to discharge into the existing combined sewer due to the constrained site;
- the proposal has no net change in contributing impermeable area;
- the proposed soft landscaping planters equivalent to 20 sqm on the roof terrace would assist with attenuation of surface water, which would be discharged into the combined sewer;
- The proposal does seek to increase the foul discharge into the combined sewer as there will be an increased discharge volume in providing 24no. additional residential properties within the existing building.

South West Water has been consulted on this application and, following the submission of a revised Drainage Statement, has no objection subject to a condition.

For the above reasons, this aspect of the scheme is considered acceptable subject to a condition.

## 10. Sustainable Construction and Energy Conservation

Exeter City Council declared a Climate Emergency in July 2019.

Local Plan First Review Saved Policy DG2 states:

*New development should be laid out and designed to maximise the conservation of energy. Proposals should:*

- (a) retain and refurbish existing buildings on site except where retention is unviable or the buildings are detrimental to the character of the site or would prejudice the best use of land;*
- (b) aim to gain maximum benefit from solar gain;*
- (c) be subject to landscape schemes which provide landform and planting that acts as a shelter for buildings.*

Core Strategy policy CP11 states:

*Development should be located and designed so as to minimise and if necessary, mitigate against environmental impacts.*

Core Strategy policies CP13 and CP14 promote renewable energy and carbon reduction.

Core Strategy policy CP15 requires sustainable design and construction methods, resilience to climate change, BREEAM Excellence and zero carbon from 2019 onwards.

Core Strategy policy CP17 requires a high standard of sustainable design that is resilient to climate change.

A Net Zero Carbon Statement, dated 28/02/23, has been submitted with this application. This notes that:

- *The proposed strategy is based on utilising passive design measures, improving the existing building fabric with wall/roof insulation and new high-performance windows and space and water heating is to be provided by direct acting electric boiler heating systems for the residential dwellings and an ASHP system for the retail.*

*To achieve the required 10% reduction in CO2 emissions through renewables (as required by the Local Authority) it is recommended that a 25.4 kWp (approx. 180sqm) roof mounted solar PV array is installed.*

The proposal predominantly involves the conversion of an existing building with a modest new built component at roof top levels.

The proposal involves some retrofit measures to upgrade the thermal efficiency of the building fabric, together with renewable energy sourced heating and ventilation.

No rainwater harvesting is currently proposed, however, this is not considered sufficient grounds for refusal in this case.

As such, this element of the scheme is considered acceptable subject to conditions.

## 11. Affordable Housing

Core Strategy policy CP7 states:

*On sites capable of providing 3 or more additional dwellings (irrespective of the number of dwellings proposed) 35% of the total housing provision should be made available as affordable housing for households whose housing needs are not met by the market.....*

Paragraph 64 of the NPPF states:

*To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount\*.*



\* Footnote 30 states:

*Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.*

The Planning obligations PPG at paragraph 026 states:

*National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.*

The Council's Affordable Housing Team has been consulted on this application and agrees that no AH contribution would be required in this case.

The proposed development would result in 28no. dwellings, representing an uplift of 24no. over the existing quantum of residential units on site. 35% of this quantum would equate to an affordable housing contribution equivalent to 8.4no. units.

Notwithstanding this, the scheme largely comprises the conversion of an existing building with a small quantum of additional floorspace, representing an uplift of 234 sqm.

The subject building is understood to have been vacant since January 2023.

A Financial Viability Appraisal, dated 23/02/23, has been submitted to accompany this application, which notes:

- The development would provide 1,907 sqm of residential accommodation and 851 sqm of retail space;
- Exeter city council have previously confirmed that the property the benefits from the Vacant Building Credit, as follows:
  - Existing vacant floor area: 3,504 sqm
  - Proposed floor area: 3,738 sqm
- The existing vacant floor space is equivalent to 94% of the proposed development, thus the maximum amount of Affordable Housing that could be provided, irrespective of the financial viability addressed in this report, is 2.1% or 0.5 units.
- The viability appraisal presents a return of 2.9% which is clearly significantly lower than the 17.5 % target.
- Any contribution towards Affordable Housing would further reduce this level.
- This report demonstrates that the scheme can be considered policy compliant without the provision of any Affordable Homes or S106 contributions towards Affordable Housing.

As noted previously in this report, planning consents refs. 19/0440/FUL and 16/0758/FUL for 24no. and 28no. dwellings respectively have been granted for this site.

The Officer Report pertaining to the most recent consent noted that:  
*The submitted Financial Viability Assessment shows that Affordable Housing contribution is not required.*

Given that the LPA has previously accepted viability as satisfactory justification for the non-provision of affordable housing or equivalent contributions at this site, together with the minimal quantum of affordable housing that would be required in light of the VBC, it is the Officer's view that no affordable housing would be required in this case.

For the above reasons, the scheme is considered acceptable in this regard.

## 12. Community Infrastructure Levy (CIL)

Core Strategy policy CP18 states:

*...Developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development. Contributions will be used to mitigate the adverse impacts of development (including any cumulative impact). Where appropriate, contributions will be used to facilitate the infrastructure needed to support sustainable development.*

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable being residential development. The rate at which CIL is charged for this development is £126.79 per sqm plus new index linking.

The gross internal area of any existing buildings on the site that are going to be demolished or re-used (ie: conversion or change of use) can be deducted from the total floor space granted planning permission. This ensures that the CIL liability is only applied to new floor space over and above what is already on a site.

For this to apply, CIL Regulations require that a part of the existing building has to have been in use for a continuous period of at least 6 months in the 3 years prior to when planning permission first permits development.

In this case, an email dated 19/05/23 from the applicants states that part of the existing building on the site was occupied for in excess of 6 months in the period ending December 2022.

Subject to verification of the above, the GIA of the existing building would be deducted from the CIL liability.

As set out in the submitted CIL Form 1, the existing GIA measures 3,506 sqm while the proposed GIA would measure 3,740 sqm. Therefore, the CIL liability as calculated at £126.79 per sqm for 234 sqm of new additional floor area would total £29,669.

Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development.

Full details of current charges are on the Council's website.

The retail element of the proposal would generate business rates.

Coming to the Habitats Mitigation contribution, this would be top-sliced from CIL receipts in this case of CIL liable developments. No additional Habitats Mitigation contribution would be required where a CIL payment is made.

As noted in the Ecology section, developments within 10km of the Exe Estuary SPA are liable to pay a contribution of £1,035.23 per residential unit. The contribution per unit increases annually by indexation and is calculated using the January Retail Price Index with the contribution per unit increasing in April each year. The contribution payable will be the annual figure plus indexation at the time payment is made.

In this case, this would total £24,845.52 based on 24no. new dwellings at the current rate. This figure is subject to an annual increase by indexation that will be calculated at the time payment is made.

Given that the CIL liability has been calculated at this stage at £29,669, the £24,845.52 would be taken from this amount and no further Habitats Mitigation contribution would be required.

### 13. Section 106 Agreement

Developer contributions would be required for the following:

- NHS healthcare provision at £584 per dwelling, which would equate to £14,016, based on 24no. new dwellings;
- Planning obligation monitoring fee in accordance with the council's published current fees and charges of £612 plus £35 per year up until payment.

In the case where developments are not liable or are exempt from paying the Community Infrastructure Levy, it is necessary to levy the Habitats Mitigation

contribution through one of two mechanisms:

- An Undertaking made in accordance with s111 of the Local Government Act 1972 or
- A Unilateral Undertaking made in accordance with s106 of the Town and Country Planning Act 1990.

The applicant has submitted a unilateral undertaking in respect of the above. This aspect of the development is, therefore, acceptable.

#### 14. Planning Balance

As noted above, the Council does not have a five year housing land supply and, as such, the tilted balance is applicable in this case.

NPPF paragraph 11 states:

*Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking, this means:*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

No letters of objection have been received regarding this application and the scheme is virtually identical to lapsed consent ref. 16/0758/FUL.

The proposal would result in 28no. dwellings, representing an uplift of 24no. over the current situation, which would make a good contribution towards the housing shortfall and would be afforded substantial positive weight in the planning balance.

The subject building is locally listed and lies within a Conservation Area and the setting of several listed buildings. Some adverse visual impact would arise from the alterations at roof level. However, these elements were found acceptable under the 2016 application and are not considered to amount to harm with respect to the visual amenity, character of the area or significance of the heritage assets.

The scheme would bring a vacant and deteriorating building back into viable use, indicative of its long term conservation.

The development would make efficient use of a brownfield site within the urban area and would be car-free, with acceptable levels of cycle parking and easy access of local amenities and sustainable transport modes.

Some economic benefits would result from the construction phase and the operational phase in terms of the employment opportunities arising from the retail space and the increased footfall for local services from the residential units.

For the above reasons, no adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF or the Local Development Plan when taken as a whole.

The proposal is considered to constitute sustainable development overall and permission should be granted subject to conditions without delay.

### **13.0 Recommendation**

GRANT PERMISSION with the following conditions:

#### **Conditions:**

##### **TIME**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

**Reason:** To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.

##### **PLANS**

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority

- 14032 P0101 Rev.B Site Location Plan, received 08/03/23
- 14032 P0200 Rev.H Proposed Basement Floor, received 09/05/23
- 14032 P0201 Rev.J Proposed Ground Floor, received 09/05/23
- 14032 P0202 Rev.H Proposed First Floor, received 09/05/23
- 14032 P0203 Rev.G Proposed Second Floor, received 09/05/23
- 14032 P0204 Rev.G Proposed Third Floor, received 09/05/23
- 14032 P0205 Rev.G Proposed Fourth Floor, received 09/05/23
- 14032 P0206 Rev.D Proposed Fifth Floor & Roof Terrace, received 08/03/23
- 14032 P0207 Rev.A Proposed Roof Plan, received 21/03/23
- 14032 P0208 Rev.A Proposed Ground Floor External Area, received 09/05/23
- 14032 P0401 Rev.F Proposed Elevations
- 14032 P0490 Rev.B Proposed Materials, received 23/06/23
- 14032 P0500 Rev.A Proposed Materials

as modified by other conditions of this consent.

**Reason:** In order to ensure compliance with the approved drawings.

## **TURRET EXTENSION**

Prior to commencement of works to the turret accommodation hereby permitted, detailed constructional drawings at 1:5/1:2 or other appropriate large scale together with full specification notes shall be submitted to and approved in writing by the Local Planning Authority that shall include among other elements full details of the proposed construction / re-cladding of the roof level accommodation where this relates to and connects with the prominent corner turret feature. The development shall be carried out in accordance with these details once approved.

**Reason:** Further detailed design work is necessary to refine this part of the design which calls for a sensitive composition and delicate articulation of form in three-dimensions, together with the careful specification of materials in order to relate well to the historic fabric and form of the turret. This is required to be a pre-commencement condition because it is necessary to ensure that proposed works do not cause harm to the visual amenity of the area or the heritage asset.

## **NEW WINDOWS**

Prior to commencement of the 2no. proposed new windows on the north-east gable, details of the appearance, including materials, colours and finishes to be used in the construction of the lintel/reused brick soldier course and window surrounds, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details once approved.

**Reason:** In the interests of visual amenity and character of the area and the significance of the heritage assets. This is required to be a pre-commencement condition because it is necessary to ensure that proposed works do not cause harm to the visual amenity of the area or the heritage asset.

## **MATERIALS**

Prior to commencement of external works, further information relating to the detailed appearance of the development hereby permitted, comprising samples and specifications of materials, colours and finishes to be used in the construction of external surfaces, windows and doors, shall be submitted to and approved in writing by the Local Planning Authority, to include the following, which is not exhaustive:

- Pattern of glazing bars and arrangement of opening lights
- RAL colours
- Construction and materials details of frameless glazing
- Sample and further details of junctions and seam pattern of zinc cladding
- Sample of roof tiles
- Dimensions and junction details of timber cladding and samples
- Details of any proposed balustrade adjacent to turret on south-west elevation.

The development shall be carried out in accordance with these materials details once approved.

**Reason:** In the interests of visual amenity and character of the area and the significance of the heritage assets.

## **BALUSTRADE**

The existing ornate metal balustrade on the north-east side of the turret extension at fifth floor level shall be retained and maintained thereafter.

**Reason:** To conserve the architectural interest of the building and visual amenity and character of the area and the significance of the heritage assets.

## **LANDSCAPING**

Prior to first use of the development hereby permitted, a detailed scheme for the landscaping, including the planting of trees and/or shrubs, the use of surface materials and any screens, walls or fences has been submitted to and approved by the Local Planning Authority; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and maintenance. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme and maintained for a minimum period of five years. Such maintenance shall include the replacement of any trees and shrubs that die.

**Reason:** In the interests of the visual and residential amenity, green infrastructure and climate change.

## **VENTILATION**

Prior to first occupation of the development hereby permitted, details of mitigation measures setting out how the dwellings shall be ventilated without allowing smoke or odours from nearby commercial kitchen extractors to cause unacceptable harm to the amenity of the future occupiers shall be submitted for approval to the Local Planning Authority and the development shall be implemented in accordance with the approved details and maintained thereafter.

**Reason:** In the interest of the residential amenity of future occupiers.

## **Noise 1**

Prior to commencement of the development the applicant shall submit for approval in writing by the LPA an updated Acoustic Design Statement, including assessment of overheating conditions. The Acoustic Design Statement should demonstrate good acoustic design, including achieving both sustainable acoustic comfort and sustainable thermal comfort. Any mitigation measures required shall be implemented in full prior to occupation of the development, and maintained thereafter.

*The Professional Practice Guidance Note (ProPG): Planning and Noise for New Residential Development May 2017 (ANC, IoA and CIEH) describes the expected content and approach of an Acoustic Design Statement. The ANC/IoA guidance 'Acoustics Ventilation and Overheating: Residential Design Guide' provides methods by which the overheating assessment can be conducted.*

**Reason:** In the interest of the residential amenity of neighbouring dwellings and future occupiers. This is required to be a pre-commencement condition because the approved measures may need to be built into the fabric of the building.

## **Noise 2**

The total sound power level of all external air source heat pumps units shall not exceed 59dB (A weighted).

**Reason:** In the interest of the residential amenity of neighbouring dwellings and future occupiers.

## **ARCHAEOLOGY 1**

No ground works shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

**Reason:** To ensure, in accordance with Policy C5 (Archaeology) of the Exeter Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.

## **ARCHAEOLOGY 2**

The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

**Reason:** To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

## **Air Quality**

Reasonable care shall be taken and best practice shall be employed at all times to prevent, mitigate and monitor emissions of dust from the demolition and construction works and the demolition and construction phases of the development hereby permitted shall be implemented in accordance with the air pollution mitigation measures set out in the approved Air Quality Assessment by Stantec, ref. 332511470, dated February 2023.

**Reason:** In the interest of air quality and the amenity of those living or working nearby.

## **DRAINAGE**

The surface water drainage pertaining to the development hereby permitted shall be implemented in accordance with the submitted Drainage Statement by Kirkham Board Associates, ref. 14032 P05.09 rev.B, dated 27/03/2023 and maintained thereafter.

**Reason:** To ensure the satisfactory drainage of the development.

## **BIODIVERSITY**

The development hereby permitted, shall proceed in accordance with mitigation and enhancement measures identified in Appendix 5 (Conservation Action Statement) of



the submitted report, Ecological Appraisal, ref. 22.092.02, by Moor to Sea Ecology Limited, dated February 2023, and prior to first use, as a minimum, all measures shall be implemented in full and maintained thereafter.

**Reason:** To safeguard the ecological interest ensuring compliance with Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 and the NPPF, and enhancing the biodiversity of the site.

## **HIGHWAYS**

In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

**Reason:** In the interest of public safety and to prevent damage to the highway.

## **CYCLE PARKING**

Before the development is first occupied or utilised the cycle parking facilities shown on the submitted plans must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

**Reason:** In the interest of sustainable transport, public safety and climate change.

## **BIN STORAGE**

Prior to occupation of the development the bin storage shall be provided in accordance with the submitted details. The bin storage shall be maintained at all times thereafter.

**Reason:** To provide adequate facilities for refuse, recycling and household waste.

## **CEMP**

The development hereby permitted shall be undertaken in full accordance with the approved Construction Management Plan by Grenadier Sustainable Developments, dated 10/02/23, and the Transport and Highways Technical Note, ref. 1528, by Awcock Ward Partnership (AWP), dated 10/03/23.

**Reason:** To protect the amenity of the locality, especially for people living and/or working nearby and highways safety.

## **CONSTRUCTION RESTRICTION**

No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.

**Reason:** To protect the amenity of the locality, especially for people living and/or working nearby and highways safety.

## **SUSTAINABILITY**

Prior to first occupation of the development hereby permitted, the sustainable construction and carbon reduction measures set out in the submitted Net Zero Carbon Statement, by Sol Environment Ltd, ref. SOL\_23\_S024\_MCM, dated

28/02/23, including the solar panels and air source heat pumps, shall be implemented in full and maintained thereafter.

**Reason:** In the interest of the carbon reduction and the Climate Crisis.

## **Informatives:**

### **NPPF PROACTIVE**

In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

### **APPROPRIATE ASSESSMENT**

In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

### **COMMUNITY INFRASTRUCTURE LEVY**

The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority, if this has not already been done. A copy is available on the Exeter City Council website.

It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil)

### **DESIGNING OUT CRIME**

The developer's attention is drawn to the following crime prevention recommendations of the Designing Out Crime Officer:

- External residential communal doorsets must not have trades button access.
- Access control measures must be in place that prevent casual intrusion beyond public space and into private space.
- CCTV to be installed throughout the scheme.
- A comprehensive management plan shall be in place that details policies and procedures for the ongoing maintenance in full working order or good condition as appropriate of the crime and anti-social behaviour prevention measures, as well as relating to incidents, problems, resident behaviour, ASB, that shall be implemented in full.

### **HEALTH AND SAFETY/FOOD SAFETY**

Although not matters contained within the scope of this application, the applicant should be advised to contact the Commercial Section of Environmental Health Services (01392 265148) in order to ensure that the following items will comply with all relevant British Standards, Regulations and guidance:

- Food safety issues - design and layout of the kitchens including fixtures, fittings, storage and ventilation.
- Adequate provision of WCs.