

1.0 Delegated planning report

Number: 23/1331/NMA
Applicant Name: Mr Javaid Aziz
Proposal: Change the original description of approval 20/1769/FUL to "Mixed used development comprising of student accommodation for up to 97 beds, with communal areas and cafe (Use class E) on the ground floor".
Site Address: 26-28 Longbrook Street
Exeter
EX4 6AE
Registration Date: 31 October 2023
Case Officer: Goran Molin
Ward Members: Kevin Mitchell, Michael Mitchell and Martin Pearce

2.0 Summary of recommendation

Approve

3.0 Description of site

The application site is located on the eastern side of Longbrook Street between the John Lewis building and 34 Longbrook Road. The site is a brown field site where former King Billy pub were located. The development of 20/1769/FUL have started with the demolition of the building of the former pub.

It was granted planning permission in May 2018 for a 9-storey building for purpose-built student accommodation for 108 beds. The description for that development was "Demolition of the King Billy pub to build a mixed-use development scheme comprising of ground floor commercial units (Use classes A1, A3 and A4) with 108 bed space student accommodation above over 6 and 7 storeys". A new application (ref 20/1769/FUL) was received in December for a renewal of the unimplemented planning permission 17/0750/FUL.

The description for ref 20/1769/FUL was "Demolition of the former King Billy pub to build mixed-use development scheme comprising of ground floor commercial units (Use classes A1, A3 and A4) with 108 bed space student accommodation above over 6 and 7 storeys (Renewal of unimplemented planning permission 17/0750/FUL)". This application was approved 17 June 2021.

The development was revised by a non-material amendment 31 May 2022 (ref. 22/0507/NMA), "a proposal for 97 bed scheme that includes a mix of 1 bed studio, 4, 5 and 7 bed flats, incorporating en-suite rooms and accessible units, with changes to

internal layout and fenestration on east and west elevations.” The development was further revised by a non-material amendment 23 January 2023 (ref 23/0069/NMA), “a proposal to rationalise floor plans including bin store, flat layouts and roof terrace”. The proposal in ref 23/0069/NMA was for a development with a single staircase. Neither 22/0507/NMA nor 23/0069/NMA proposed to change the description of the original application 20/1769/FUL. Although the changes of the development included a reduction from 108 beds to 97 beds within in the envelope of the approved building.

Other application in the planning history below is with regard to the planning conditions, including 23/0136/NMA that varied the trigger points of Conditions 6, 12 and 14.

4.0 Description of development

The application proposes to amend the description of planning permission ref. 20/1769/FUL from:

“Demolition of the former King Billy pub to build mixed-use development scheme comprising of ground floor commercial units (Use classes A1, A3 and A4) with 108 bed space student accommodation above over 6 and 7 storeys (Renewal of unimplemented planning permission 17/0750/FUL).”

To:

"Mixed used development comprising of student accommodation for up to 97 beds, with communal areas and cafe (Use class E) on the ground floor".

The new description reflects that the former King Billy pub has been demolished and the development has already commenced under the original approval and description. The new description also reflects the changes to the Use Classes Order and the mixed use on the ground floor.

5.0 Supporting information provided by applicant

Proposed Amended Description

Indicative Ground Floor showing communal areas and cafe (Use class E)

6.0 Relevant planning history

Reference	Proposal	Decision	Decision Date
20/1769/FUL	Demolition of the former King Billy pub to build mixed-use development scheme comprising	PER	17.06.2021

	of ground floor commercial units (Use classes A1, A3 and A4) with 108 bed space student accommodation above over 6 and 7 storeys (Renewal of unimplemented planning permission 17/0750/FUL)		
22/0507/NMA	Revised proposal for 97 bed scheme that includes a mix of 1 bed studio, 4, 5 and 7 bed flats, incorporating en-suite rooms and accessible units, with changes to internal layout and fenestration on east and west elevations (non material amendment to 20/1769/FUL)	PER	31.05.2022
23/0017/DIS	Discharge of Condition 5 (Contamination Report) of approval 20/1769/FUL	CPA	25.01.2023
23/0018/DIS	Discharge of Conditions 4 (Construction Environmental Management Plan), 7 (Proposed Cycle Store) and 13 (Drainage) of approval	CFD	09.02.2023

	20/1769/FUL		
23/0069/NMA	Non-material minor amendment to rationalise floor plans including bin store, flat layouts and roof terrace of approval 20/1769/FUL and 22/0507/NMA.	PER	23.01.2023
23/0136/NMA	Non-material amendment to vary trigger points of Conditions 6 (Archaeology), 12 (SAP calculations) & 14 (acoustics) of approval 20/1769/FUL	PER	09.02.2023
17/0750/FUL	Demolition of the King Billy pub to build a mixed-use development scheme comprising of ground floor commercial units (Use classes A1, A3 and A4) with 108 bed space student accommodation above over 6 and 7 storeys	PER	27.04.2018
07/1353/FUL	Provision of umbrella on south terrace	PER	13.08.2007

7.0 Consultations

None – no consultations were considered necessary.

8.0 Representations

None – publicity not considered necessary.

9.0 Relevant policies

Town and Country Planning Act 1990, Section 96A

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.

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 Equality 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 the 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) removing or minimising 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 other 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

It is deemed that the change of description is non-material as it doesn't by itself proposed material changes to the planning approval and the changes doesn't goes to the heart of the approved development. The planning approval will still be for a 9-storey building for mixed development of student accommodations and commercial uses. Neither the original nor the new description has a restriction of the maximum numbers of floors or the height of the building. The massing and height in the approval was controlled by the drawings.

That the new description is being more flexible or updated with regard to the Use Class Order does not by itself raise concern or new material considerations. The opportunities that a more flexible description need to be assessed in other planning applications and compared with original approval. It is not deemed that open up for future application to be assessed without the need of exactly be 108 beds student accommodation would be of material consequence with regard to planning matters.

The description more clearly allows for mixed use on the ground floor with communal areas and Use Class E, with café as the proposed Class E use. The planning approval for ref. 20/1769/FUL showed lobby and service areas for the student accommodation on the ground floor. The principle that bed-units is above the ground floor has not changed with the new description.

The original description included the clause “108 bed space student accommodation above over 6 and 7 storeys”. This suggests student accommodation between the first and eighth floor. The approved drawings illustrated sleeping accommodation only on these floors, however the student accommodation use is shown on all nine storeys of the approved development. The new description would support student accommodation use on all nine storeys, with communal areas and café on the ground floor. In principle the new description more clearly allows for the applicant's wish for the communal space in the approval to be moved from the eighth floor to the ground floor, and consequently the opportunity to be replaced with bed units. The applicant's intention has been indicated on the ground floor plan submitted with this NMA-application. In the new description to more clearly support student

accommodation use on all floors could be deemed a change of the approval, however not material in the context of the overall approved scheme.

The proposed description is more flexible and allows for schemes up to 97 beds rather than exactly 108 beds as in the original description. The new description is however consistent with permitted non-material amendments in ref. 22/0507/NMA and ref. 23/0069/NMA, which deemed that the change from 108 beds to 97 beds is non-material.

The conclusion is that the amendment of the description can be satisfactorily deemed non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.

13.0 Recommendation

Approve