

Goran Molin
City Development
Exeter City Council

By email
goran.molin@exeter.gov.uk
planning@exeter.gov.uk

15 October 2024

Dear Mr Molin,

24/0149/VOC Exwick Changing Rooms, Western Road.
RE-CONSULTATION OF REVISED SCHEME - Demolition of existing building to provide a new sports pavilion and all-weather 3G pitch. (Variation of Condition 2 of planning permission 21/1710/FUL to amend the design of the sports pavilion and, including new roof plant, and amend the position, fencing and visitor/player viewing areas of the 3G pitch.).

The Planning Group of Exeter Civic Society has considered this application and would like to make the following response as set out below:

We wish to make two objections to this planning application which is a submission to amend the approval for these proposals granted in February 2023. That application was subject to amendments during the application phase but we did not raise any concerns to the sports pavilion in its original form, or the approved form, but we did raise concerns then about the AWP.

Our concerns now relate to changed proposals for the sports pavilion, and accept the proposed changes to the approved AWP as minimal. This application was submitted in February 2024 for reasonable changes to both the AWP and pavilion, although we would have expressed concerns for changes to the pavilion if new proposals were not submitted in August of 2024. It is our assertion that the proposals are no longer for a sports pavilion, and this aspect of the application should be withdrawn to allow consideration/approval of the AWP where the works have commenced as phase one.

First objection. We do not believe that the latest submitted plans (8 August 2024) for a teaching block instead of a changing pavilion is acceptable because it does not match the description of the application shown above, or the original application, 21/1710/FUL, described as '*Demolition of existing building to provide a new Sports Pavilion and All-Weather 3G Pitch. Exwick Changing Rooms Western Road.*'

Condition 2 of approval 21/1710/FUL stated that the development was to be carried out in "strict" accordance with approved plans, including 1643.PL05 Rev F. This plan shows changing rooms and a gym on the ground floor and classrooms, IT suite, sports lab, and staff room on the first floor.

The revised drawings submitted in August for current application 24/0149/VOC seeks to vary condition 2, i.e. to change the approved plan 1643.PL05 RevF with a reduced height building

providing four classrooms, a gym/teaching area and a staff office. It is our assertion that four classrooms, and a gym/teaching area, i.e. no changing rooms/showers cannot be considered to be a "sports pavilion", but a form of education facility. The revised building "conflict or is inconsistent" with the "operative part" of the 2023 permission i.e. the provision of a Sports Pavilion, and that the new plan will "fundamentally alter" the development permitted by the permission. We submit below two legal judgements relating to changed proposals which were upheld to support our assertion that the proposed single storey teaching accommodation must be rejected by the council as an acceptable variation to the original approved application.

In the case of *Finney v Welsh Ministers* (2019) the permission allowed two wind turbines "up to a height of 100m", **Condition 2 required the development to be carried out in accordance with the approved plans which showed a 100m high turbine.** An application was made to change the approved plan to allow a turbine up to 125m. In essence the High Court said it is not possible to substitute a plan for 100m turbine with a 125m turbine when the description of the development in the permission was for turbines up to 100m high. There would be a clear conflict between permission for turbines up to 100m and an approved plan showing turbines up to 125m.

In 2023 this was followed by the case of *R (Fiske) v Test Valley Borough Council*. The judge held there were "two distinct restrictions". First, a condition cannot be introduced which "conflicts or is inconsistent" with the description of the development in the planning permission. Secondly there cannot be a condition imposed later which "fundamentally alters" the development permitted.

We think there is an argument that what is proposed here fails on both examples.

The proposal for the sports pavilion will create a "conflict or inconsistency" with the original permission, and is "fundamentally altering" the development permitted. Whilst we accept the validation of the 2024 application for variations in February 2024, we do not believe revised proposals for the pavilion should have been accepted by the planning officer in August for the above reasons, and having been validated should be refused.

Second Objection. If the council is still minded to consider the revised proposal for a teaching block, our objection is based on the following:-

1. We appreciate that the existing changing room block was constructed in the 1980s, well before the Riverside Valley Park Master Plan was developed, or the current Local Plan Policies adopted. However, a quote from the Officer's Report for the approved application 21/1710/FUL states *'Saved Policy LS1 of the Local Plan review states that development that would harm the city's landscape setting will not be permitted. Development proposals should maintain local distinctiveness and character and, among other things, be reasonably necessary for agriculture, forestry, the rural economy, outdoor recreation or the provision of infrastructure. Any built development associated with outdoor recreation must be essential to the viability of the proposal unless the recreational activity provides sufficient benefit to outweigh any harm to the character and amenity of the area.'* Our assertion is that a teaching block does not align with this policy because it does not support *recreational* activity or provide sufficient benefit to outweigh any harm to the character and amenity of the area. Extracts from the officer's report are added below.
2. It is our assertion that the current proposal for a teaching block is a different class use to a sports pavilion and cannot be approved through an application to vary a condition to construct a sports pavilion.

3. The proposal for this teaching block does not offer any public benefit because the facilities will solely benefit Exeter College and Exeter Chiefs Rugby Club. Such a facility should be built elsewhere.
4. The Design & Access Statement by Grainge Architects, dated November 2022 for approved scheme 21/1710/FUL states in the summary '..... ***The proposed facilities will be used by students during the 'normal college day' and will also be available for local community groups, clubs and other users outside of these times, i.e., evenings, weekends and holiday periods.*** The proposed development seeks to replace the existing changing rooms which are currently in Condition D - meaning the building is inoperable, or likely to become inoperable, due to statutory compliance issues, and is limiting / preventing operations. We believe the revised plans will provide a positive upgrade to the facilities currently on offer ***for both students and members of the community.***' The current proposals do not meet the applicant's assertion about community benefit, and there is no supporting information to demonstrate how the community will have access to the facilities previously available to support recreational use of the sports pitches.
5. The existing changing rooms are in an ideal position situated between Flowerpot Fields and Exwick Fields. The supporting information says that users of the pitches will now get changed at the Exwick Hub, but this is some distance from Flowerpot Fields. The applicant has not provided any information to demonstrate the route for sports competitors, or that the Hub has sufficient capacity for their day to day activities, or for community use out of hours.
6. The application form states that the development has not commenced but currently both parts of the application have started.

Finally, I note that planning application notices have been placed at the site of the all-weather pitch, as evidenced by photos dated 19/09/24 on the application website but having recently visited the site of the changing rooms, I could not see any notices positioned there. Do you think the proposed changes have advertised adequately?

Yours sincerely

K Lewis

Keith Lewis

Officers Report for 2021 approved application.
Green Infrastructure and Valley Parks

The application site is located within Riverside Valley Park, one of seven crucial informal recreation areas identified within the development plan. They are 'green lungs' within the city that contribute to biodiversity, providing formal and casual recreation opportunities that are readily accessible by foot or cycle. Stretching from Cowley Bridge to Topsham, the development plan identifies this park as the largest of the Valley Parks. It notes that the park's landscape character and wildlife value alters significantly along its length, from grazing meadows in the north, through the Quay/Canal Basin area and then southwards to become part of the Exe Estuary Site of Special Scientific Interest. It is recognised as a popular informal recreational area that is accessible from many parts of Exeter, and

it forms a continuous wildlife corridor through the city. Saved Policy L1 of the Exeter Local Plan First Review sets out that measures to enhance the Valley Parks will be implemented based upon achieving a balance between the aims of conservation, recreation, public access and environmental education. Development which would harm existing or potential opportunities for informal recreation in the Valley Parks will not be permitted. The supporting text to this policy states that the only forms of development appropriate within these areas concern outdoor recreation, agriculture or forestry. Core Strategy Policy CP16 further says that the strategic green infrastructure network (including the Valley Parks) will be protected and enhanced. The character and distinctiveness of the Valley Parks will be safeguarded, and proposals for landscape, recreation, biodiversity and educational enhancement will be brought forward under the guidance of the Green Infrastructure Strategy.

Landscape and Ecology

The application site is located west of the designated Riverside Conservation Area. The Valley Parks are also identified within the development plan as an essential part of Exeter's landscape setting. As such, **Saved Policy LS1 of the Local Plan review states that development that would harm the city's landscape setting will not be permitted. Development proposals should maintain local distinctiveness and character and, among other things, be reasonably necessary for agriculture, forestry, the rural economy, outdoor recreation or the provision of infrastructure. Any built development associated with outdoor recreation must be essential to the viability of the proposal unless the recreational activity provides sufficient benefit to outweigh any harm to the character and amenity of the area.** The proposed sports pavilion would replace an existing changing room facility on the site. The proposed footprint of the Pavilion has now been reduced compared to the previously submitted proposals and set at a lower land level away from the Exeter Flood Defence Scheme. Furthermore, the proposed 3G pitch would be on an existing rugby pitch site instead of the playing fields to the south. Concerning landscape impact, the development proposals sensitively respond to the site context while reflecting its recreational land use function and value.