

**PLANNING COMMITTEE**  
**2 NOVEMBER 2015**  
**ADDITIONAL INFORMATION**

**Correspondence received and matters arising following preparation of the Agenda**

**Item 5 : Pages 5-46 : Ref No: 15/0704/01**  
**Land west of Fitzroy Road and north of Honiton Road, Exeter**

A late objection has been received from Montagu Evans acting for The Crown Estate and TIAA Henderson Real Estate, owners of Princesshay and applicants for the current planning application to redevelop the Bus and Coach Station site.

Montagu Evans note the proposals do little to revise the scheme that was previously refused planning permission and wish to maintain objections previously submitted by Rob Turley Consultancy. There have been no changes to planning policy nor to the form and scale of the proposals that would overcome the reasons for refusal of the previous application. In summary:

- Proposals are contrary to the policies of an up to date development plan and no material considerations indicate otherwise
- Proposals continue to be contrary to national guidance
- Will undermine the development of the Bus and Coach Station
- Will undermine ability to bring forward new public leisure and transport facilities risking existing, committed and planned public and private investment in the City Centre.

The Bus and Coach Station outline application is being progressed with due diligence, assertions the proposal is unlikely to come forward are invalid. The proposal fails the sequential test the Bus and Coach Station site is available and suitable.

Montagu Evans note that eight planning conditions have been proposed by the applicant to impose restrictions on total floorspace, unit sizes and goods that can be sold. It is of the firm opinion that the proposed conditions do not remedy the potential harm to Exeter City Centre. It also notes that six of the eight conditions include the phrase 'unless otherwise agreed in writing by the local planning authority' and three reference drawings and include the phrase 'or any alternative configuration of floorspace'. The use of such 'tailpieces' has been found to be unlawful by the courts, such conditions would allow a substantially different development to be brought forward outside the statutory development process.

Further submission by applicant

Following the publication of the report to Planning Committee and an exchange with the applicant regarding whether it is possible to control the development to mitigate its effects through planning conditions (detailed on p25-26 of the officer's report), the applicant's agent has written to the Council that they remain open to the Council imposing planning conditions to bring the proposal within the scope of what the Council considers appropriate. The agent's earlier letter had referred to restriction on the western unit to convenience goods and no subdivision but not to the other proposed restrictions (summarised on p25) and describes this approach as according with the NPPF and PPG. However, the latest letter moves away from that and suggests that the Council could impose the

conditions identified by Bilfinger GVA.

The agent states that it remains his client's view that a development so restricted would not enable a deliverable scheme having regard to current occupier requirements and market conditions, but they continue to take market soundings to ascertain whether it would be an acceptable solution in commercial terms and sufficient to enable them to withdraw the current appeal.

Officer response

Whilst the conditions put forward by Bilfinger GVA (p25) could have addressed the sequential and impact issues (by regulating the development to a form that would not be appropriate on the Bus and Coach Station Site and which would not effectively compete with it so as to prejudice planned investment), it was made clear at the time that they did not address the policy objection that what was proposed did not accord with Policies CP8 and CP19 of the Core Strategy. That issue was left to be addressed if it had been the case that the applicant was prepared to accept the conditions. However, the agent has indicated that such restrictions would not produce a commercially deliverable scheme. It would not therefore be reasonable to impose conditions which would have the practical effect of precluding the development from coming forward.

In any event, such conditions would result in a District Centre on the site, in conflict with the Core Strategy strategic allocation, and if such a scheme is not deliverable (as above) there would be no question of there being potential benefits from that scheme to be weighed against the policy conflicts. There is therefore nothing to justify setting aside the Core Strategy proposals for the site. Thus, the conditions would not overcome the Council's planning objections and there is no reason to put them forward. The planning conditions would not have addressed the Local Centre/strategic allocation objection, because what would have been provided would have fulfilled a District Centre function. The Agent's suggested revisions to those conditions (to enable the scheme to deliver a large Next-type comparison unit with other floor space) would not have delivered a District Centre, would not have been consistent with the description of development in the application, and would not have overcome the sequential or impact objections (see p25, 26 and 30 of report).

**Item 6 : Pages 47-58 : Ref Nos. 15/0907/03 and 15/0909/03  
Land off Exeter Road, Exeter**

**Update 1** - An objection has been received from Cllr Baldwin regarding the scale and density of the proposed development which she considers is out of keeping with the surrounding locality in terms of height and open space. There is also concern that the new development is a high rise, high density, urban-style build in an environmentally sensitive area. Additional information has been requested regarding proposed conditions to control contractor parking on Retreat Drive during construction and access onto Retreat Drive, which is a privately owned road.

Response:

The 3 storey elements of the development are limited to one section of the plot and consist of 2 dwellings and the Affordable Housing units, forming a gateway on the corner of the site abutting Exeter Road and Retreat Drive. This is considered to be acceptable.

With respect to contractor parking, a condition (No.5) has been added to both applications requiring the submission of adequate areas to accommodate operatives' vehicles, machinery and materials in order to minimise the impact on surrounding roads.

There is an existing access from Retreat Drive into the site via a field gate, which is a historical right of way. The layout proposed in the current application has no requirement for access of any description onto Retreat Drive, vehicular or pedestrian. The site layout plan does currently show pedestrian connectivity to Retreat Drive, but there is no reliance on this and landscaping could be introduced if required, so that pedestrian access to plots 21-28 would be secured from pathways from the parking court, to Exeter Road.

**Update 2** – It is clarified that the S106 agreement is linked to the Outline Application (14/1605/01) and the Reserved Matters application (15/0909/02). It secures the provision of Affordable Housing on site, which is delivered through the Full Application (15/0907/03) and will be updated as part of the Reserved Matters to include the additional commuted sum required to make up for the additional 1.8 Affordable Housing units required through the provision of 28 dwellings.

**Update 3** – Conditions for the Reserved Matters Application 15/0909/02, as per Pages 55 – 58 of the report, are revised as follows:

Condition No. 2:

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 17<sup>th</sup> August 2015 (*Dwg. Nos. EXRD-PL1,3,7 & 9/ EXRD-PL2,8 & 10/ EXRD-PL18 & 19/ EXRD-PL20-22*) and 20<sup>th</sup> October 2015 (*Dwg. Nos. EXRD-001-SITE PLAN/EXRD-002-HARD LANDSCAPING LAYOUT 1 of 2/ EXRD-002-HARD LANDSCAPING LAYOUT 2 of 2/EXRD-004-SITE PLAN WITH OPEN SPACE/ EXRD-PL4/ EXRD-PL5 & 6/ EXRD-PL11 & 12/ EXRD-PL13/ EXRD-PL14-17*), as modified by other conditions of this consent.

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

Condition No. 13:

Any individual dwelling hereby approved shall achieve Code for Sustainable Homes (CSH) Level 4 in respect of Energy and CO2 Emissions including a 44% CO2 emissions rate reduction from Building Regulations Part L 2006 as a minimum, in accordance with the requirements of the Code for Sustainable Homes 2006, the Code for Sustainable Homes Technical Guide November 2010 and the Code Addendum May 2014 (or such equivalent standard that maybe approved in writing by the Local Planning Authority) and Exeter Core Strategy Policy CP15.

**Reason:** In the interests of sustainable development.

Condition No. 14:

Prior to commencement of any dwelling the developer shall submit to the Local Planning Authority an assessment to show how the requirements of condition 13 above will be met. The measures set out in that assessment shall subsequently be implemented on site in relation to each individual dwelling prior to the first occupation of that dwelling.

**Reason:** To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development.

New Condition No. 23:

All gates to private gardens shall only be recessed by a maximum of 500mm.

**Reason:** To ensure the community is designed in a safe and secure way and in compliance with Policy DG7 of the Exeter Local Plan.

**Update 4** – Conditions for the Affordable Housing Application 15/0907/03, which were omitted from the report, are as follows:

- 1) C05 – Time Limit – Commencement
- 2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 17<sup>th</sup> August 2015 (*Dwg. No. EXRD-PL23-28*) and 20<sup>th</sup> October 2015 (*Dwg. Nos. EXRD-001-SITE PLAN/EXRD-002-HARD LANDSCAPING LAYOUT/EXRD-004-SITE PLAN WITH OPEN SPACE*), as modified by other conditions of this consent

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

- 3) The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.  
**Reason:** To ensure that adequate information is available for the proper consideration of the detailed proposals.
- 4) No part of the development hereby approved shall be occupied until cycle parking facilities have been provided in accordance with details (including access arrangements) that shall previously have been submitted to agreed and approved in writing by the Local Planning Authority and maintained for that purpose at all times.  
**Reason:** To encourage travel by sustainable modes.
- 5) No part of the development hereby approved shall be commenced until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for the construction period.  
**Reason:** In the interest of public safety.
- 6) No part of the development hereby approved shall be occupied until a pedestrian/cycle connection of at least 3.0 metres width between the site access and Retreat Drive, as indicated on the October 2015 site plan, has been provided and made available for public use. Such a link shall be maintained for this purpose at all times.  
**Reason:** To provide adequate facilities to promote the use of sustainable modes, in accordance with Section 4 of the NPPF.
- 7) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.  
**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.
- 8) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.  
**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 9) In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.  
**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 10) No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2005 - 'Trees in Relation to Construction'. The developer shall maintain such fences to the

satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

**Reason:** To ensure the protection of the trees during the carrying out of the development.

- 11) All trees shall be a minimum of 10-12cm girth and shall be container grown; the trees shall not be planted until written approval has been provided by the Council's Arboricultural Officer that he/she is satisfied with the condition and form of the proposed trees. Any trees delivered to site or planted must comply with *Trees: from nursery to independence in the landscape – Recommendations BS 8545:2014*. The Council reserves the right to reject, and require the replacement of any trees that do not comply with the above British Standard either prior to or following the planting of the trees. Owing to the above, and prior to the trees being delivered to site or planted, the applicant is advised to seek approval from the Planning Department that the form and quality of the trees is acceptable.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 12) All trees planted within or adjacent to hard surfaces should be planted into tree pits utilising an underground crating system.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 13) Any individual dwelling hereby approved shall achieve Code for Sustainable Homes (CSH) Level 4 in respect of Energy and CO<sup>2</sup> Emissions including a 44% CO<sup>2</sup> emissions rate reduction from Building Regulations Part L 2006 as a minimum, in accordance with the requirements of the Code for Sustainable Homes 2006, the Code for Sustainable Homes Technical Guide November 2010 and the Code Addendum May 2014 (or such equivalent standard that maybe approved in writing by the Local Planning Authority) and Exeter Core Strategy Policy CP15.

**Reason:** In the interests of sustainable development.

- 14) Prior to commencement of any dwelling the developer shall submit to the Local Planning Authority an assessment to show how the requirements of condition 13 above will be met. The measures set out in that assessment shall subsequently be implemented on site in relation to each individual dwelling prior to the first occupation of that dwelling.

**Reason:** To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development.

- 15) No part of the development hereby approved shall be brought into its intended use until a visibility splay at the site access to Exeter Road has been provided, where the visibility splay provides intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distance along the nearer edge of the carriageway of the public highway (identified as Y) shall be 55 metres in both directions, and retained for that purpose.

**Reason:** To provide adequate visibility from and of emerging vehicles required to provide a safe and suitable access to the site.

- 16) No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.

17) Prior to the occupation of the dwellings hereby approved, a wildlife plan indicating how the design and layout of the site and buildings will maximise wildlife opportunities and habitat within the site, shall be submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that wildlife opportunities and habitat are maximised in the development of the site in the interests of biodiversity.

18) No development shall take place until a Construction and Environment Management Plan (CEMP) has been submitted, and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP, the following restrictions shall be adhered to:

- a) There shall be no burning on site during demolition, construction or site preparation works;
- b) Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays and not at all on Sundays and Public Holidays;
- c) Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.

The approved CEMP shall be adhered to throughout the construction period.

**Reason:** To protect neighbouring residential amenity.

19) No development shall take place until a scheme for protecting the proposed development from noise has been submitted to the Local Planning Authority and approved in writing. All works that form part of the scheme shall be completed before any of the permitted development is occupied. *The applicant should aim to achieve at least the standards for internal and external noise levels specified in BS8233:2014 Sound Insulation and Noise Reduction for Buildings.*

**Reason:** To protect future residential amenity.

20) No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

**Reason:** In the interests of the amenity of the occupants of the building(s) hereby approved.

21) Prior to the commencement of the development a Sustainable Urban Drainage Scheme (SUDS) to deal with surface water associated with the development shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Devon County Council as the Lead Local Flood Authority). The said scheme shall include details of the on-going maintenance arrangements associated with any drainage system to be installed. The development shall be implemented strictly in accordance with the approved scheme.

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

**Item 7 : Pages 59-72 : Ref No. 14/1579/03**  
**Land to west of Pilton Lane, Exeter**

Flood Risk Assessment has now been submitted, along with a draft drainage plan. The Environment Agency (EA) have been re-consulted and have provided the following revised consultation response –

*“We can withdraw our objection to the proposal providing development proceeds in accordance with the Jubb Consulting Engineers Ltd, Flood Risk Assessment, reference P8825/G201/B, dated June 2006.”*

South West Water (SWW) has also confirmed that the surface water drainage arrangements comprised in the draft drainage plan would be acceptable from their perspective.

In the light of this additional information, and revised consultation responses the following condition is proposed to replace Condition 4 as set out in the original report –

4) The development shall not begin until full details of the proposed drainage scheme (including details of the on-going maintenance arrangements for any communal un-adopted elements of the drainage scheme) have been submitted to and approved by the Local Planning Authority in writing (in consultation with Devon County Council as the Lead Local Flood Authority). The drainage details submitted pursuant to this condition shall accord with the submitted Flood Risk Assessments by Jubb Consulting Engineers Ltd report no. P8825/G201/B dated July 2006 and Fairhurst Consulting Engineers (Job No. 200206) received on 27<sup>th</sup> October 2015. In respect of surface water the drainage works shall comprise a Sustainable Urban Drainage Scheme (SUDS) unless it is clearly demonstrated in writing that it is unviable or unfeasible to do so on this site. Thereafter the development shall be implemented in accordance with the approved details. Thereafter the development shall be implemented in accordance with the approved details.

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

In the light of the additional submitted information, and further comments received from the EA and SWW, the officer recommendation is one of approval subject to the conditions set out in main report (as amended by condition 4 above), and the completion of the appropriate S106 covering the matters identified in the main report.

**Item 8 : Pages 73-78 : Ref No. 15/1049/03**  
**Pilton House, Pilton Lane, Exeter**

No further update.