

**ITEM NO. 7**

**COMMITTEE DATE:**

**30 NOVEMBER 2015**

**APPLICATION NO:**

15/0895/03

**FULL PLANNING PERMISSION**

**APPLICANT:**

Purple Investment Management LLP (The Crown Estate)

**PROPOSAL:**

Refurbishment and change of use of ground floor to provide 2 no. Class A3 restaurants, including erection of conservatories and laying out of external seating areas; remodelling of public realm including hard and soft landscaping and associated works (Departure from Local Development Plan)

**LOCATION:**

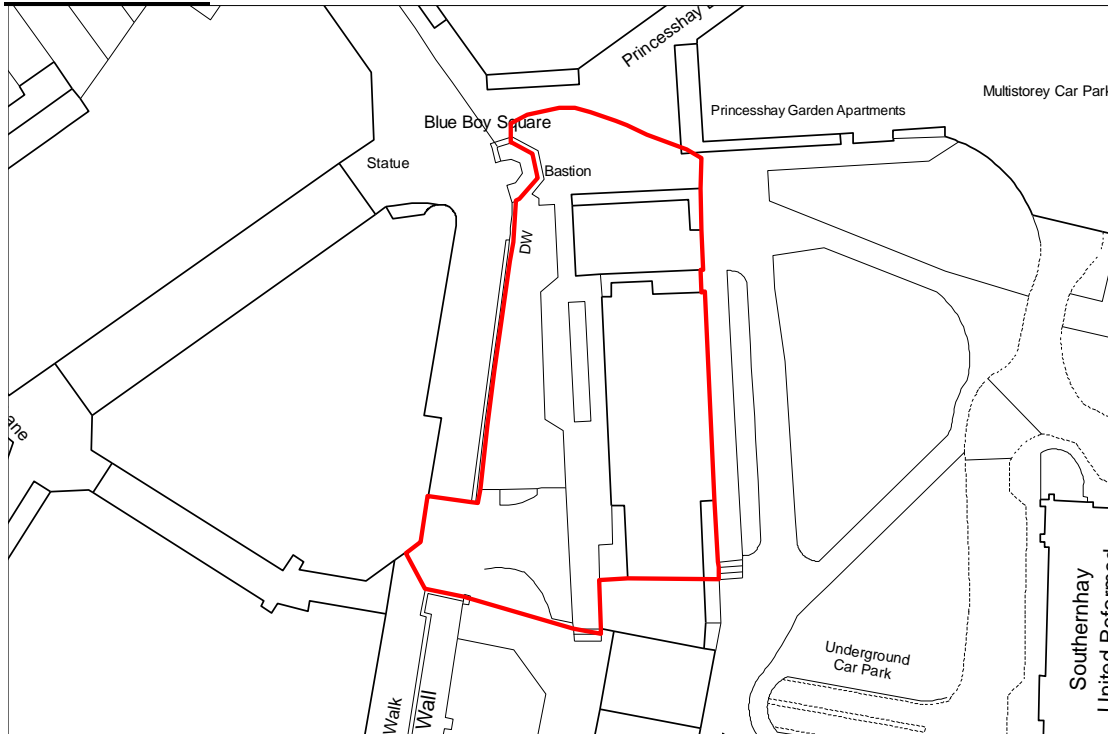
Broadwalk House, Southernhay West, Exeter, EX1 1TS

**REGISTRATION DATE:**

13/08/2015

**EXPIRY DATE:**

22/10/2015



Scale 1:1000

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**HISTORY OF SITE**

07/0812/03 -	Alterations to lift shaft, stairs, ventilation shafts, provision of glazed pergola over stairwell, balustrading, cycle stands at rear of south door and to the south of north door	PER	08/06/2007
02/0300/03 -	Redevelopment to provide buildings for mixed uses: retail - including department store (Class A1), financial and professional services (Class A2), food and drink (Class A3), business (Class B1); 112 residential units; Tourist Information Office; Heritage Centre and Shopmobility; public toilets and multi-storey car park (286 spaces); to include demolition, refurbishment, alterations and	PER	09/05/2003

11/2046/03 - extensions, public spaces, highway works, landscaping and excavations to accommodate basement servicing and associated works. Change of Use of part of ground floor from business to medical. PER 16/03/2012

### **DESCRIPTION OF SITE/PROPOSAL**

The development site is 2 existing office units that form ground floor, north end of Broadwalk House in Southernhay, and land to the west of this including public realm and the City Wall. Broadwalk House is a 5 storey office block which currently has approximately 40% vacancy rates and occupiers including a bank with customer access on the ground floor, solicitors, the RSPB and many other B1 and A uses. The proposed development is for the refurbishment and change of use of the two vacant ground floor units from estate agents offices/medical consulting rooms to provide two class A3 restaurants, including the erection of two single-storey largely glazed extensions, and the laying out of external terraced seating areas, with associated remodelling of public realm including hard and soft landscaping and the creation of a circular plaza feature. Due to policy E3 'Retention of Employment Land', of the Local Plan Review, this application is a departure from Local Development Plan as this policy seeks to protect employment uses (B class) in locations including Southernhay.

### **SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT**

Design and Access Statement  
Noise Assessment Report  
Arboricultural report

### **REPRESENTATIONS**

Two letters of objection have been received from two separate occupiers of offices in Broadwalk House, Tozers solicitors and the RSPB, and 10 letters have also been received from residents including at Trinity Apartments and Princesshay Garden Apartments next to the Broadwalk House site, and from an address in Bristol and another in Matlock, Derbyshire. Objections are over to impacts on residential amenity, and amenity of office workers in Broadwalk House, odour and noise from restaurants, removal of trees, and the potential for anti-social-behaviour, Tozers Solicitors have also stated that this application is a departure from the Development Plan

### **CONSULTATIONS**

#### **Exeter City Council (ECC) Archaeologist and Historic England (HE):**

The ECC Archaeologist and Historic England initially raised concerns, which are set out below in terms of Historic England's response:

We do not oppose the proposed use of the building for restaurants, nor the majority of the proposals for reordering the area outside the building to accommodate a new path, lighting, and outdoor seating areas. However, the proposed tree planting and associated seating at the west end of the site on the historic line of the City Wall are not acceptable due to their potential harmful impact on the archaeological remains of the scheduled monument. These items should be omitted from the proposals and a less harmful scheme should be undertaken for this section of the application site. We also recommend that the development should be accompanied by an archaeological programme for investigation and recording of archaeological remains. If these issues are addressed then we have no objection to the application.

After submission of revised drawings the ECC Archaeologist has agreed to the revisions and set out requested conditions:

- a) The setting of this section of the Roman and medieval city wall (a scheduled monument, equivalent in importance to a Grade I listed building) will be improved by the proposals, including the removal of the 1970s upcast or bank against its outer face, and, from a heritage point of view, from the removal of the trees, that were mostly

- planted in the 1970s and are located too close to the face of the wall, with the result that one at least is causing the wall to crack and bulge. Whilst trees can often form a very visible and attractive part of the character of an area, they are essentially have a limited lifespan and can be replaced, whereas a city wall built 100s of years ago cannot, and is rather expensive to rebuild or repair should any of it collapse.
- b) The proposals for the plaza area and its central feature are now acceptable as they should not involve any ground works that will disturb or remove any buried remains of the city wall in this location, and involve the delineation of the line of the wall in the paving.
  - c) The proposal to re-use some of the Roman and medieval architectural stonework from the Princesshay excavations in a low wall within the scheme is welcome, although this should be the wall adjoining the ramp rather than the wall of one of the restaurant bin stores. It should include provision for some interpretation, so that people know what they are looking at, and the details can be agreed under a condition on a permission.
  - d) The relatively limited ground works involved in the development are unlikely to have much or any impact on buried remains, and as much as there will be an impact this is acceptable subject to archaeological recording, ensured through attaching the standard C57 condition to a consent.

Historic England have yet to respond to the second consultation however an oral update will be given at the Committee Meeting.

### **Devon County Council Highways:**

The submitted application is for a change of use of the Ground Floor of Broadwalk House North on Southernhay Way from financial/professional services and other non-residential institutions to restaurants and cafes.

By nature of any cluster of city centre restaurants and cafes, the proposed developments are not expected to result in a significant uplift in vehicular traffic and the existing pedestrian provision within the vicinity of the site and the surrounding shopping area is deemed to be suitable. Therefore, from a highways perspective the principal of the development is not a significant concern.

As the site is located on a public highway, it is essential that construction works are carefully managed to minimise the impact on the highway. This could include the careful management of the transportation of building materials to and from the site particularly in the areas where there is a dense population of pedestrians which is common at this site with it being on the periphery of Princesshay Shopping Centre. The applicant is advised to meet with representatives of the highway authority prior to commencing any works to agree the construction arrangements. These arrangements should be secured by condition.

The suggested condition is:

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements and timings and management of arrivals and departures of vehicles. Prior to commencement it is recommended that the developer consults, and if necessary meets with, the Local Highway Authority to establish a safe means of progress. The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and public amenity.

### **Devon and Cornwall Police Architectural Liaison officer:**

Owing to the surrounding use types and current reported crime rates in the vicinity the police would have no objection in principle to A3 use of the area subject to the following points:

#### 1. Hours of opening and use

Currently unknown. Any premises that form part of the early and late night economy has the potential to impact on crime and disorder if the premises are to be liqueur licensed.

Based on surrounding premises licensing times run to midnight, we would therefore seek that all premises are conditioned to cease operating at midnight.

## 2. Surveillance

A change in the public realm that will attract more users has the potential to require more formal surveillance to prevent conflict, disorder or misuse.

Owing to the location being shielded by both the Roman Wall and the building line to Southernhay surveillance from passing Police and Security patrols will be lower. There is also a lack of monitored CCTV surveillance from the Council EBAC and pub watch scheme over the area of this application.

The Police would seek that either formal security patrols are present during evening and late night economy opening times, or that a monitored CCTV link is implemented with Exeter City Council/Princesshay.

This is requested owing to the proximity of Princesshay and the High Street likely to attract footfall.

## 3. Lighting

A good lighting scheme promotes feeling of safety, security and surveillance with evening or night time economy. The scheme should provide:

- Adequate illuminance levels
- Good uniformity
- Low light pollution
- Good aesthetic appearance
- Regular maintenance
- Vandal resistant equipment and materials
- Depending on the environmental zone, lux levels of 20 lux with an overall uniformity value of no less than 0.4.

## 4. Management

As discussed, management of the public realm is important to ensure that it is not misused by vagrants or revellers when businesses are closed. It can be addressed as above.

All seating and movable items (such as planters etc) should be fully removable and stored in a safe location or fully fixed to prevent misuse.

## 5. Void spaces

Bin storage areas must be fully enclosed and locked at all times when not in use.

The proposals show some void areas at entrance points in the building line where glass units protrude outwards from the building.

These areas can be prone to rough sleeping or misuse by revellers from other premises especially if balconies or covers provide shelter above. The building line should be as flat as possible removing void and hiding areas.

After receiving comments from the Police Architectural Liaison Officer in reply Wayne Pearce, the Centre Director, from the Princesshay Shopping centre Management, stated that:

- in relation to point 1 Hours of Use, The proposed hours of operation would meet this point, save where an application for a special licence is made by the licensee.
- point 2, Surveillance, The area is already covered by CCTV monitored 24/7/ 365 by the Princesshay control room. Coverage is afforded to both sides of the Roman Wall. The area is monitored by security foot patrols 24/7/365. This is the approach we have adopted for all licensed premises operating in Princesshay since its opening in 2007. The behaviours mentioned have are not typical within Princesshay
- point 3 lighting, The lighting design scheme deals with these elements, and the overall lighting level will rise. This coupled with the increased visitor numbers will promote the feeling of safety and security within the area.
- point 4 management, This regime is already in place within Princesshay, and the same regime will be employed in this area.

- point 5 void spaces, bins, rough sleepers, etc, Bins will be stored in a locked area. The area is patrolled 24/7 to address any issues raised by rough sleeping or antisocial behaviour.

### **Environmental Health ECC:**

Requested further information which has then be supplied and has stated that "the impact of plant noise can be controlled by conditions setting noise limits" and that in regards to odour extraction this can be set by a prior to operation condition requiring the applicants to submit details. The consultation response noted that there will be some noise impacts resulting from the proposed use but that it is ultimately a planning decision rather than an Environmental Health one due to the fact that the impacts would be relatively minor and not result in any exceedance of noise standards but could still affect the ambience of the area. She has also suggested several other conditions:

- The uses hereby permitted shall not operate other than between the hours of 8am to 11pm (Sunday to Thursday) and 8am to 12 midnight (Friday and Saturday).
- The external seating areas shall not be used after 11pm on any night, and all furniture that is removed for storage over night shall have been moved before 11pm.
- There shall be no live or recorded music played outside.
- Total noise levels from all building services plant shall not exceed a rating noise level (measured in accordance with BS4142:2014) of 30 dB at the facade of the Trinity and Princesshay Garden apartments. The noise level can be measured at a surrogate point, and the level at the facade predicted by calculation to demonstrate compliance with this condition.

### **Landscape Officer:**

The Landscape Officer made several suggestions for amendments to the initial plans which were:

- Proposed city wall paving: the face of the city wall should be delineated as a straight line following the existing face to left and right of the existing opening. On the Roman Walk side the inner face of the wall should be represented by blending the proposed and existing paving as suggested by the revised drawing but with a tapered layout reflecting the different widths of the wall either side of the opening. I would advise that porphyry setts (purple/red) should be used to pick up on the colour of City Wall stone instead of the proposed dark grey granite.
- Proposed tree planter: the finite container volume will restrict choice of species and size of tree, limit lifespan thus requiring early replacement and require a much higher level of maintenance: much more detail is required about how these issues will be addressed.
- Levels information is needed in and around the proposed steps, planter and ramp to allow further consideration of the potential location of the found fragments of stonework: HE to be consulted.

The Landscape Officer has agreed that the revised plans are acceptable.

## **PLANNING POLICIES/POLICY GUIDANCE**

Central Government Guidance: NPPF, PPG

Exeter Local Development Framework Core Strategy:  
CP2 - Employment development

Exeter Local Plan First Review 1995-2011:  
E3 - Retention of employment land or premises  
S5 - Food and Drink  
TM5 - City Wall  
C5 - Archaeology  
EN5 - Noise

Exeter City Council Development Delivery DPD

## **OBSERVATIONS**

### **Principle of Development**

The proposed development is for the change of use of two existing, ground-floor office units within the Broadwalk House complex on Southernhay. The proposed change of use would be to 2 restaurants, class A3, with projecting single-storey conservatory extensions, external seating areas in the form of two semi-circular terraces and alterations to the public realm including the creation of a circular 'plaza' feature. The development site is part of the Broadwalk House complex, which is a slab block of offices located at the northern end of Southernhay West. It is currently under occupied with approximately 40% vacancy rates. The proposed development would change from designated employment uses in 'B' class to A3 restaurant use, which is against policy CP2 of the adopted Core Strategy which seeks to protect designated employment sites including in Southernhay. However policy CP2 recognises that alternative uses can present opportunities that could achieve 'economic benefits for the city' and the travel to work area. It should also be noted that although policy CP2 seeks to retain Southernhay in 'B' class employment uses the majority of premises are occupied by professional services entities such law firms, estate agents and accountants which are recognised as being in 'A' uses, with minimal use of premises for 'B' use class purposes. This has also been the case for the two units which are the subject of this application with one unit previously used for an estate agents (use class A2) and a medical consulting room (use class D2). Under the GPDO 2015 there is the provision for prior approval to a change of use from A2 uses to A3 so at least one of the units may have been able to change use under Part 3 Class C, (although this would not have included works to the public realm). Given that there would be economic benefits to the city in terms of employment opportunities within the catering industry the proposed the change of use is acceptable in principle and in compliance with policy CP2.

### **Visual Impacts**

The proposed development would make minor alterations to the Roman Walk side of Broadwalk house including creating two projecting single storey 'conservatory' style extensions. These would be modest in scale and keeping to the same design aesthetic as the host block and would not be out of character with the existing townscape or of an overly dominant scale. The proposed works to the public realm including the creation of the plaza feature would be acceptable.

### **Residential Amenity and anti-social behaviour**

The applicants have requested hours of operation for the proposed restaurants which can be mandated by planning condition and are not unreasonable. Although the police architectural liaison officer has raised certain issues in relation to potential anti-social behaviour the applicants manage the entire Princesshay complex with adequate and extensive CCTV coverage, and security guards 24 hours a day and this proposed development would also be part of the security remit and therefore would be unlikely to present any significant new anti-social-behaviour issues.

Several letters of objection have been received from residents and owners of apartments in Trinity Apartments, which is located above the main shopping centre in Princesshay. These have chiefly been concerned with noise and odour issues related to the proposed development. However the submitted acoustic report has demonstrated that sound levels would be below those stipulated in policy EN5 and pre-commencement conditions would be attached to any permission granted requiring submission of details of odour extraction equipment, therefore it would be possible to control and limit impacts on residential amenity.

### **Archaeology, and Conservation Area impacts**

The ECC Archaeologist has agreed that the revised drawings are acceptable and that through planning conditions any undisturbed archaeology can be protected and recorded during the construction phase. Further response to the proposed revisions are awaited from Historic England which will be given as an oral update to the planning committee

### **Trees and Public Realm**

The Landscape Officer has made various recommendations in relation to the public realm, detailed above, which have been taken onboard by the applicants with drawings revised accordingly. The application does involve removal of some trees however this is deemed to be acceptable in this instance as it is from a relatively small section of the public realm adjacent to the City Wall. One of the trees is the subject of a TPO and has already been granted approval for removal under a separate application

### **RECOMMENDATION**

**APPROVE** subject to the following conditions:

- 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, as modified by other conditions of this consent.  
**Reason:** In order to ensure compliance with the approved drawings.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements and timings and management of arrivals and departures of vehicles. Prior to commencement it is recommended that the developer consults, and if necessary meets with, the Local Highway Authority to establish a safe means of progress. The approved Statement shall be adhered to throughout the construction period.  
**Reason:** In the interests of highway safety and public amenity.
- 4) C57 - Archaeological Recording
- 5) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of smoke, fumes and smell from the premises shall be submitted to, and approved in writing by, the local planning authority and the approved scheme shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions thereafter.  
The applicant should be advised that further guidance on the required information is available in annex B of the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.  
**Reason:** To protect neighbouring amenity.
- 6) The uses hereby permitted shall not operate other than between the hours of 8am to 11pm (Sunday to Thursday) and 8am to 12 midnight (Friday and Saturday).  
**Reason:** To protect neighbouring amenity.

**Local Government (Access to Information) 1985 (as amended).**  
**Background papers used in compiling the report:**

Files of planning applications available for inspection from the Customer Service Centre,  
Civic Centre, Paris Street, Exeter: Telephone 01392 265223