

## **EXETER CITY COUNCIL**

**REPORT TO: EXECUTIVE**

**DATE OF MEETING: 12 JULY 2016**

**REPORT OF: ASSISTANT DIRECTOR CITY DEVELOPMENT**

**TITLE: EXTINGUISHMENT OF VEHICULAR RIGHTS IN PARIS STREET.**

**Is this a Key Decision?**

No

**Is this an Executive or Council Function?**

Executive

### **1. What is the report about?**

This report recommends that Exeter City Council agree to make an application to the Secretary of State for the extinguishment of the right to use motor vehicles on Paris Street (between Dix's Field and High Street) under the terms of Section 249 of the Town and Country Planning Act 1990 to facilitate the improvement of the amenity of that area.

### **2. Recommendations.**

That, provided the developer undertake to meet the City Council's full costs, Executive agree that delegated power is given to the Assistant Director City Development to submit an application (or applications) to the Secretary of State for the extinguishment of rights to use motor vehicles on Paris Street (between Dix's Field and High Street) under the terms of Section 249 of the Town and Country Planning Act 1990. The purpose of this application is to improve the amenity of that area in accordance with the scheme set out within the outline planning application (reference 15/0791/01) for the redevelopment of the Bus and Coach Station site which Council (meeting on 20 January 2016) passed a resolution to support. That redevelopment scheme includes the formation of a public amenity space on the land.

### **3. Reasons for the recommendation:**

The extinguishment of rights under Section 249:

- Accords with the terms of planning consent ref. 15/0791/01;
- Preserves these areas of the highway as public highway;
- The developer is not eligible to apply under this section and can only apply to stop up the highway, in which case it would cease to be public highway.

### **4. What are the resource implications including non-financial resources.**

An undertaking that the developer would meet the City Council's Costs would be required by the recommendation. This can be included in the agreement under Section 106 of the Town and Country Planning Act attached to the consent (reference 15/0791/01) the draft of which includes such a provision.

The City Council could employ external consultants to administer the application on its behalf with the cost being met by the developer as described above.

Some officer time in appointing and supervising those consultants and ensuring costs were met would be required.

**5. Section 151 Officer's comments:**

There are no additional financial implications contained in the report.

**6. What are the legal aspects?**

These are set out in paragraphs 2 and 3 above.

**7. Monitoring Officer's comments:**

This report raises no issues for the Monitoring Officer.

**8. Report details:**

The planning application for redevelopment of the Bus and Coach Station site for a comprehensive retail-leisure led mixed use development comprising commercial leisure, retail uses, Leisure Centre and Bus Station, with associated access landscaping and public realm works was supported by decision of full Council in January 2016. This included the exclusion of vehicles from Paris Street between Dix's Field and High Street and for this area to become a public space with Kiosk buildings. Provision was to be made in the layout of the space for emergency vehicles to pass through.

An Order authorising the stopping up (removal of public rights of way) of any highway can be made by the Secretary of State to allow development to be carried out in accordance with a valid and relevant planning permission granted under Part III of the Town and Country Planning Act 1990.

A developer can apply under Section 247 of the Town and Country Planning Act 1990 to the Secretary of State for an Order to 'stop up' highway to be built on where planning permission is applied for, and the developer intends to do so for those areas of Paris Street where Kiosk buildings are proposed. The highway to be stopped up must be being developed upon, and fall within the planning boundary of the planning permission. The result of such an Order is that the land ceases to be public highway but ownership would revert to the City Council as the owner of the subsoil.

The developer is not eligible to make applications under under Section 249 of the Town and Country Planning Act, which allows for vehicular rights to be removed from a highway and for the land in question to remain as public highway. It is the expressed preference of the County Council as Highway Authority that the area should remain public highway. Hence the approval of Executive is sought for the City Council make an application, or applications, under Section 249 provided the costs are met by the developer.

The areas of land in Paris Street currently built on, on which no new buildings are proposed to be constructed could similarly have rights relating to motor vehicles

extinguished provided that they were first dedicated as Public Highway A second S249 application would be required in this circumstance and hence the recommendation refers to applications in the plural.

The application(s) can be made for particular classes of vehicle and hence can be made without excluding emergency vehicles.

The application(s) would be publicised by notice once it has been registered by the Secretary of State. Responses to that publicity would be considered by the Secretary of State in the process of making a decision on the application.

**9. How does the decision contribute to the Council's Corporate Plan?**

The redevelopment of the Bus and Coach Station site, of which the creation of a public space in Paris Street is an integral part, is a priority identified in the Corporate Plan.

**10. What risks are there and how can they be reduced?**

The table below summarises key risks and mitigation measures.

<b>Risk</b>	<b>Mitigation</b>
Costs not met by developer.	Robust agreement that developer will meet ECC costs to be obtained.
Application not successful.	Appoint experienced consultant to undertake application on behalf of the City Council.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

The decision to prefer this legislative route will have a neutral impact on equality and diversity, safeguarding children, young people and vulnerable adults the environment, and community safety.

**12. Are there any other options?**

It is a requirement of the developer (Crown Estate and TIAA Henderson) promoting redevelopment of the commercial elements of the scheme of redevelopment ref. 15/0791/01, for which there is resolution to grant consent, that this part of Paris Street is closed to traffic. The City Council support this position. Alternative options are:

- for the Developers to seek traffic orders from the County Council as Highway Authority, which offers less certainty of timing and outcome and as such results in greater risk to the development scheme.

**Richard Short**  
**Assistant Director City Development**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

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