

Planning Committee Report [22/1548/FUL)

1.0 Application information

Number:	22/1548/FUL
Applicant Name:	Bennik Developments Limited,
Proposal:	Renovation, conversion and change of use Exeland House from retail unit and office to form a co-living scheme of thirty-four units including communal facilities and a co-working office space, front extension with four floors, link building, public plaza on the existing car park and renovation of existing bridge link to New Bridge Street.
Site Address:	Exeland House Tudor Street Exeter
Registration Date:	4 November 2022
Link to Documentation:	https://exeter.gov.uk/planning-services/permissions-and-applications/related-documents/?appref=22/1548/FUL
Case Officer:	Roger Clotworthy
Ward Member(s):	Cllrs Moore, Read & Sparling

REASON APPLICATION IS GOING TO COMMITTEE: The Service Lead - City Development considers the application to be a significant, controversial and/or sensitive application that should be determined by the Planning Committee in accordance with the Exeter City Council constitution.

2.0 Introduction

This supplementary report is presented to the Planning Committee following the Committee's resolution to approve planning application 22/1548/FUL for Exeland House in January. The application proposed the renovation, conversion, and change of use of Exeland House to form a co-living scheme comprising thirty-four units, communal facilities, a co-working office space, and enhancements to the public realm. This report aims to address developments since the initial resolution and to seek a new resolution from the Committee.

The report to Planning Committee in January is attached as Appendix A.

3.0 New Developments

3.1 Withdrawal of the Environment Agency Objection

After the Committee's decision, the Environment Agency withdrew its initial objection to the proposed development at Exeland House. This withdrawal came after detailed consultations and the submission of revised plans by the applicant, addressing the Agency's concerns related to flood risk management, access, and drainage. The Agency has now recommended the imposition of specific conditions to ensure these matters are comprehensively managed.

2.2 Communication from Neighbouring Site Owner

Further, communication was received from the owner of a neighbouring site, expressing an ambition to develop their property. The neighbouring owner highlighted potential impacts of the Exeland House development on their future proposal, specifically regarding access, light, and the potential for construction disruption. This communication necessitates consideration of the implications for both developments, ensuring that the Exeland House project does not unduly prejudice the future development potential of the neighbouring site.

4.0 Implications of New Developments

4.1 Environment Agency's Conditions

The conditions recommended by the Environment Agency focus on detailed flood risk management and are within the scope of ensuring sustainable development at Exeland House. It is recommended that these conditions be incorporated into the approval, ensuring the development proceeds with adequate safeguards against flood risk.

4.2 Communication from Neighbouring Site Owner and Implications for Planning

The recent communication from the owner of The Old Vic, the neighbouring site to Exeland House, has raised important considerations for both the ongoing and future development of Tudor Street. This section elaborates on the implications of these communications.

4.2.1 Background

In January 2024, following the Planning Committee's resolution to approve the Exeland House development, the owner of The Old Vic, through their representative, Expedite Planning Services, raised concerns not previously discussed in the committee report. These included the potential for overlooking and loss of light due to the Exeland House development and the impact on their future development ambitions for The Old Vic site, which envisages residential apartments.

4.2.2 Pre-application Enquiry for The Old Vic

The pre-application enquiry for The Old Vic, referred to in the correspondences, was submitted in early 2023, with feedback provided in April 2023. This enquiry sought to explore the development potential of the adjacent site. However, during the planning

committee discussions for Exeland House, this neighbouring proposal was not mentioned, leading to concerns from The Old Vic's representatives about the comprehensive consideration of material factors in the decision-making process. The informal scheme proposed a four-storey building of flats. It showed some living room windows facing the north-west elevation of the proposed Exeland House scheme.

4.2.3 Planning and Legal Considerations

The dialogue between City Council Officers and Expedite Planning Services reflects a discussion on whether the pre-application enquiry for The Old Vic should have been considered a material factor in the decision-making process for Exeland House. The Council's stance is that while adjacent informal proposals are of interest, they are not in the public domain or formally agreed in any way. The formal status and public scrutiny of such proposals significantly influence their weight as material considerations.

It is important to clarify that the existence of the informal proposal did not significantly impact the assessment of the Exeland House application to the extent that it would have altered the officer's recommendation. The planning evaluation focused on the merits of the Exeland House proposal within the context of existing planning policies and frameworks, acknowledging the principle of sustainable urban development and regeneration of brownfield sites.

Furthermore, it is assessed that the future redevelopment potential of The Old Vic site remains intact and feasible, even with the progression of the Exeland House scheme. The careful consideration of both sites indicates that there are no insurmountable constraints preventing the redevelopment of The Old Vic, suggesting pathways for its development that can coexist harmoniously with the Exeland House project.

Consequently, the Exeland House scheme continues to be regarded as acceptable within the planning balance. It meets the strategic objectives of delivering high-quality, sustainable urban living spaces, contributing to the housing supply, and enhancing the local area. This approach ensures that the planning process remains flexible and responsive to evolving urban landscapes, supporting the comprehensive and integrated development of Exeter's city centre.

4.2.4 Future Development Implications

The resolution to approve the Exeland House application now serves as a material consideration for the future development of The Old Vic site. This establishes a precedent that must be considered in any forthcoming planning applications for The Old Vic, particularly regarding aspects such as design, scale, and amenity impacts.

4.2.5 Conclusion

The engagement between the Council and the neighbouring site owner highlights the complexity of urban development, where adjacent proposals can have interdependent impacts. It underscores the need for careful consideration of all material factors in the planning process, including the potential for future development proposals. As The Old Vic's development ambitions move forward, it will be crucial to engage in a comprehensive planning dialogue that considers the implications of adjacent developments, ensuring that both projects contribute positively to the urban fabric and community of Exeter.

Considering these discussions, the Planning Committee is advised to acknowledge the concerns raised by the neighbouring site owner as a material consideration. This acknowledgement should inform a nuanced understanding of the broader development context in Tudor Street, ensuring that the planning process remains robust, transparent, and forward-looking.

5.0 Recommendation

It is recommended that the Planning Committee:

- a) Notes the withdrawal of the Environment Agency's objection and the recommended conditions to mitigate flood risk.
- b) Considers the communication from the neighbouring site owner as a material consideration, acknowledging the potential for future development and its implications.
- c) DELEGATES TO THE SERVICE LEAD (CITY DEVELOPMENT) TO GRANT PERMISSION SUBJECT TO THE COMPLETION OF A LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO SECURE THE FOLLOWING:
 - On-site Affordable Housing at 20 per cent for Build-to-Rent
 - £18,240 for local GP surgeries expansion
 - A Management Plan (Co-living) to include details of tenant vetting and on-site management.
 - Pedestrian rights of way across the approved Plaza
 - £5,000 towards the implementation of the Devon County Council Exeter Local Cycling and Walking Infrastructure Plan.

And the following conditions (and their reasons) the wording of which may be varied:

CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.

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 4 November 2022, 13 December 2022, 12 October 2023, 20 October 2023 and 1 February 2024 (including drawings numbers 20.80_PL_06C, 07D, 08E, 09D, 10C, 11B, 12B & 13B) as modified by other conditions of this consent.

Reason: To ensure compliance with the approved drawings.

3) **Pre-commencement condition:** No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to monitor and control the emission of dust and dirt during construction.
- h) No burning on site during construction or site preparation works.
- i) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the LPA.

Reason for pre-commencement condition: In the interests of the occupants of nearby buildings. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

4) **Pre-commencement condition:** Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works.
- (b) daily hours of construction.
- (c) any road closure.
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular

movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance.

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits.
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases.
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless the Local Planning Authority have given prior written agreement.
- (h) hours during which no construction traffic will be present at the site.
- (l) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Reason for pre-commencement condition: To minimise disruption during construction and in the interests of minimising the impact on the highway and traffic movements.

5) **Pre-commencement condition:** No development shall take place until an investigation has taken place to determine the risk to development posed by Unexploded Ordnance. The results, together with any further works or recommended working practices deemed necessary shall thereafter be implemented on site.

Reason for pre-commencement condition: To ensure that risks are determined as early as possible in the interests of public safety.

6) **Pre-commencement condition:** No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy. This surface water drainage system shall be designed up to the 1 in 100-year (+ climate change) rainfall event without any flooding predicted within the modelling.
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason for pre-commencement condition: To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign/unnecessary delays during construction when site layout is fixed.

7) **Pre-commencement condition:** The development hereby permitted shall not be commenced until such time as the detail design for the flood resistance and resilience measures have been submitted to and approved in writing by the local planning authority. The detailed design of the mitigation measures shall be clearly shown on a technical drawing and conform to section 8 of the flood risk technical note (rev P2), the agreed minimum height (9.995mAOD for resistance measures and 10.9mAOD for resilience measures), and the relevant standard listed. The mitigation measures shall be fully implemented and maintained over the lifetime of the development.

Reason for pre-commencement condition: To reduce the risk and impact of flooding to the proposed development and future users.

8) **Pre-commencement condition:** The development hereby permitted shall not be commenced until such time as a scheme to repair the length of the Higher Mill Leat through the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a pre-work survey and a repair method statement covering the repair of the bed and wall (bank) on the south side to T98 Asset Condition assessment standard. The scheme shall be fully implemented prior to the occupation of any part of the development.

Reason for pre-commencement condition: To reduce the risk of flooding to the proposed development and future users.

9) **Pre commencement condition:** 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 buildings 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 for pre-commencement condition: In the interests of the amenity of the occupants of the buildings hereby approved. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.

10) **Pre-commencement condition:** 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 for pre commencement condition: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

11) **Pre-commencement condition:** No development shall take place until an Ecological Enhancement Plan is submitted to and approved in writing by the local planning authority. The plan shall include the locations and specifications of the enhancements detailed in the Ecological Impact Assessment (Colmer Ecology, 2022), and shall show both a plan view onsite and an elevations view of the buildings. The plan shall also include a commitment to auditing the installation of the features proposed, which shall be conducted prior to final occupation and a record kept for three years.

Reason for pre commencement condition: in the interests of protecting and enhancing the natural environment.

12) No above ground development shall take place until a construction ecological management plan (CEcMP) has been submitted to and approved in writing by the local planning authority. The CEcMP shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of "biodiversity protection zones". c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. Specific regard shall be given to the timings proposed for bat licensing, a summary of the bat mitigation, and any measures to be implemented to ensure bat roosts are protected prior to licensable works taking place.

Reason: In the interests of protecting and enhancing the natural environment.

13) No above ground development shall take place until such time as the detailed design of the external site levels, minimum floor levels and the proposed flood water passage route has been submitted to, and approved in writing by, the local planning

authority. The agreed design shall be fully implemented prior to occupation and subsequently maintained over the lifetime of the development.

Reason: To reduce the impact of flooding to the site and ensure that there is no increase in risk to third parties.

14) Prior to the commencement of the above ground works, full constructional drawings of the junction details shall have been submitted to and approved in writing by the Local Planning Authority. The development/works shall be implemented in accordance with the approved details.

Reason: To ensure that the construction of the development is to a high standard.

15) No parts of any building hereby approved shall be occupied until the secure cycle parking facilities for residents and visitors have been provided in accordance with the approved plans. Thereafter the said cycle parking facilities shall be always retained for that purpose.

Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.

16) Prior to the occupation or bringing into use of any part of the development hereby approved details of the arrangements that have been put in place for the ongoing management and maintenance of the communal spaces, landscaping, surfaces, street furniture, means of enclosure, access controls and cycle parking shall have been submitted to and approved in writing by the local planning authority and these arrangements shall have been secured on an ongoing basis.

Reason: To ensure the communal spaces are maintained and continue to serve and provide amenity to the occupiers of the dwellings hereby permitted, and in the interests of public amenity.

17) Prior to first occupation of the development hereby permitted, the disabled parking space shown on drawing 20.80_PL_06B shall be constructed and made available for use.

Reason: To ensure that there is appropriate disabled car parking provision.

18) Works impacting the existing roof void, or any other feature where a bat roost has been identified and is likely to be impacted by the proposed works, shall not in any circumstances commence unless the local planning authority has been provided with either: a) a licence issued by Natural England authorizing the specified activity to go ahead; b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence; or c) the submission and approval by the LPA of full justification detailing why a bat licence is no longer necessary.

Reason: to protect bats.

19) 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.

20) A detailed scheme for hard and soft landscaping and lighting, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.

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

21) 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.

22) Total noise from all building services plant shall not exceed a rating noise level (measured in accordance with BS4142:2014) of 52dB (07:00 to 23:00) and 49dB (23:00 to 07:00), measured at 1m from the façade of noise sensitive receptors.

Reason: In the interests of the amenity of occupants and neighbours.

23) The sound insulation performance of glazing, mechanical vent openings and walls shall achieve at least the levels specified in sections 7.2 and 7.3 of the submitted Mach Group Environmental Noise Assessment RP1600 dated 22/02/2023.

Reason: In the interests of the amenity of occupiers.

24) Notwithstanding the approved plans no external lighting shall be installed on the site unless the details have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the residential occupiers and in the interest of highway safety.

25) Unless otherwise agreed in writing prior to construction of the buildings hereby approved construction shall only be carried out in accordance with the standards and technologies described in the submitted Design Foundry Energy Strategy dated December 2022.

Reason: In the interests of securing the described energy performance of the buildings which are significant material consideration in determining the application.

26) Provision shall be made within the site for the disposal of surface water (other than flood water) so that none drains on to any County Highway.

Reason: In the interest of public safety and to prevent damage to the highway.

27) The development hereby permitted shall maintain the safe access and egress route as detailed in the submitted plans and documents, for the lifetime of the development. No alterations to the approved access and egress arrangements shall be made without prior written consent from the Local Planning Authority.

Reason: To ensure the provision and retention of safe access to and from the site for all users, in accordance with the recommendations of the Environment Agency and to promote sustainable development principles, thereby safeguarding the wellbeing of the site's occupants and the public.

INFORMATIVES

1) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

2) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the Southeast Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly, your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (i.e., where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see www.exeter.gov.uk/cil.

4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.

5) The residential development hereby approved will not be eligible for Residents Parking Permits for on street parking.

Alternative Recommendation:

b) REFUSE PERMISSION FOR THE REASONS SET OUT BELOW IF THE LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED WITHIN SIX MONTHS OF THE DATE OF RESOLUTION TO APPROVE THE APPLICATION OR SUCH EXTENDED TIME AS AGREED IN WRITING BY THE SERVICE LEAD (CITY DEVELOPMENT)