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**From:** Local Plan Review  
**Subject:** FW: Mid Devon Local Plan Review - Representations made on behalf of The Crown Estate and THRE  
**Attachments:** 170214 TCE J27 Representations Issued.pdf  
**Importance:** High

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**From:** Jon Bradburn [REDACTED]  
**Sent:** 14 February 2017 15:44  
**To:** Local Plan Review  
**Cc:** Craig Blatchford  
**Subject:** Mid Devon Local Plan Review - Representations made on behalf of The Crown Estate and THRE  
**Importance:** High

Dear sir/madam

On behalf of The Crown Estate and TH Real Estate, please find attached representations to the Mid Devon Local Plan Review – Proposed Submission (incorporating proposed modifications).

Please can you confirm receipt of this email and attachment?

We would be very happy to discuss the attached with you in further detail if it would be of use. Please do not hesitate to contact either myself or Craig Blatchford (cc'd) if you would like to arrange a meeting or if you require any additional information.

Kind regards

Jon

**Jon Bradburn MRICS MRTPI**  
**Associate – Planning and Development**

Montagu Evans LLP  
5 Bolton Street, London W1J 8BA  
Direct: [REDACTED] Mobile: [REDACTED] Switchboard: [REDACTED]  
Email: [REDACTED]  
Website: [www.montagu-evans.co.uk](http://www.montagu-evans.co.uk)



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**Chad Kirby**

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CHARTERED SURVEYORS

5 Bolton Street  
London W1J 8BA

Tel: [REDACTED]  
Fax: [REDACTED]

www.montagu-evans.co.uk

PD10368/CB/JWB

email: [REDACTED]

14 February 2017

Local Plan Review Consultation,  
Forward Planning,  
Mid Devon District Council,  
Phoenix House,  
Tiverton  
EX16 6PP

***By email only:*** [REDACTED]

Dear Sir/Madam,

**THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING) (ENGLAND) REGULATIONS 2012  
MID DEVON LOCAL PLAN REVIEW 2013-2033  
PROPOSED SUBMISSION VERSION (INCORPORATING PROPOSED MODIFICATIONS)  
REPRESENTATIONS ON BEHALF OF THE CROWN ESTATE AND TH REAL ESTATE  
OBJECTION TO DRAFT ALLOCATION FOR JUNCTION 27, M5 MOTORWAY**

On behalf of The Crown Estate and TH Real Estate, we submit representations to the Mid-Devon Local Plan, specifically in regard to the emerging allocation for Junction 27.

Whilst in principle, The Crown Estate/TH Real Estate supports the objective of the Council to increase the tourism and leisure offer in the region, we are of the opinion that, through the draft allocation for Junction 27, the draft plan is **unsound**.

**Background**

The Crown Estate and TH Real Estate are the owners of the existing Princesshay Shopping Centre. This forms the principal shopping centre in Exeter and, together with the rest of the City Centre, forms a regional shopping and restaurant destination in the South West.

Princesshay provides a fashion led offer, anchored by a Debenhams department store and a range of MSU's and standard unit shops. Key retailers in the centre include:

- Apple (their only store in the region);
- Fat Face (UK flagship store offering their greatest range of product lines);
- Debenhams; \*\*
- Hollister;
- Reiss;
- Smiggle
- MAC Cosmetics

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- Topshop;
- Superdry;
- Crew Clothing;
- Zara;
- Next;
- Cath Kidston;
- Pandora
- Saltrock; and
- Joules.

Other leading brands in the wider City Centre include:

- John Lewis; \*\*
- Clarkes;
- Urban Outfitters;
- Paperchase;
- Marks and Spencer;
- Sports Direct;
- Lush;
- Jack Wills;
- Waterstones; and
- H Samuel.

*\*\* Debenhams and John Lewis include a number of concession stands for other brands which could potentially locate in an outlet centre.*

As you will be aware, The Crown Estate and TH Real Estate are also bringing forward the commercial element of the Exeter Bus and Coach Station development, providing an extension to the Princesshay Shopping Centre.

This scheme is an important and significant improvement to Exeter City Centre, and is required to ensure that Exeter maintains its position within the retail hierarchy of the region.

The approved scheme for the Exeter Bus and Coach Station site extends to 3.3 ha and includes up to 27,547 sq m of development. The scheme comprises the following component parts:

- New bus station and interchange\*;
- New Leisure centre (including two swimming pools, gym and health suite)\*;
- Class A1 retail space;
- Class A3 retail space;
- Class D2 Cinema;
- Public amphitheatre; and
- Public realm improvements.

*\*to be delivered by Exeter City Council*

## Proposed Draft Policy J27

The allocation for Junction 27 is set out within emerging Policy J7. This draft policy sets the overarching strategy and headline detail for how this development is to come forward, stating:

*"A site of approximately 71 hectares adjoining the south bound carriageway of the M5 motorway, adjacent to junction 27 is identified for major development. The land, which lies to the south of the A38, is allocated for the provision of a major high quality regional tourism, leisure and retail attraction supported by ancillary roadside services and supporting infrastructure including a pedestrian bridge across the M5 motorway linking the site to Tiverton Parkway railway station.*

*The site provides a prime location for delivery of a major leisure destination themed around agriculture and the agri-economy; the regional environment and tourism; outdoor land and water-based adventure activities and outlet-retailing. The site provides a major opportunity to deliver a unique leisure destination at the gateway to Devon and Cornwall which should be realised as a single cohesive and comprehensively masterplanned visitor attraction.*

*The allocation makes provision for the following elements:*

- *Travel Hub (7ha) – Motorway/roadside services; electric car hub; hotel.*
- *Agronomy Visitor Centre (9ha) – exhibition space and hall, gallery; research and education space; regional visitor centre and hotel. The Agronomy centre will include up to 1,000 square metres of ancillary retail.*
- *Outdoor Adventure Zone (6ha) – Surf lake/lagoon; beach; high ropes adventure area.*
- *Outlet Shopping Village (6ha) - Designer outlet shopping centre retailing controlled goods comprising discontinued/end-of-range lines, seconds and surplus/sample stock. The Outlet Shopping Village to include up to 14,000 square metres of controlled comparison goods and up to 2,000 square metres of A3 uses.*

*The development is subject to the following:*

- a) *Provision of supporting access roads, parking and infrastructure/landscaping (43ha);*
- b) *Provision of transport improvements to ensure appropriate accessibility for all modes, including new or improved access and egress onto the M5 motorway and pedestrian and cycling links across the motorway to Tiverton Parkway Railway Station;*
- c) *Environmental protection and enhancement including noise mitigation;*
- d) *A comprehensive phasing programme to ensure the tourist and leisure provisions are delivered at the same time as the retail and service elements of the development; and*
- e) *Prior to the approval of any planning permission for the site any required mitigation measures for the Culm Grasslands Special Area of Conservation shall be identified and agreed together with a time-scale for their provision and a mechanism for their maintenance.*

*Development of the site should be brought forward in accordance with the terms of a detailed development brief, comprehensive masterplanning including at least two stages of public consultation and adoption of the Masterplan as a Supplementary Planning Document before any planning application for any part of the site is determined."*

### **Basis for The Crown Estate/TH Real Estate Representations**

The Crown Estate/TH Real Estate supports development and regeneration projects which accord with policy objectives and/or where the scheme benefits materially outweigh the disbenefits. In principle, The Crown Estate/TH Real Estate supports the objective of the Council to increase the tourism and leisure offer in the region.

However, there is the potential for the retail element of Junction 27 scheme, specifically the "designer outlet shopping centre", to have a significant adverse effect upon the existing centres within its catchment area.

Our clients concerns include:

- The plan making process, and specifically the introduction of such a large and strategic allocation in the form of Policy J27 at such a late stage;
- The robustness of the evidence base for inclusion of Policy J27;
- The failure of proposed Policy J27 to reflect the dynamic nature of retailing and specifically how factors fundamental to the consideration of the "designer outlet shopping centre" may change; and
- The safeguards proposed to ensure that the "designer outlet shopping centre" does not have a negative impact on the vitality and viability of existing centres, particularly Exeter City Centre.

### ***Development Plan Process***

In accordance with Regulation 19 of The Town and Country Planning (Local Planning) (England) Regulations 2012, the Council are publishing and consulting on the submission version of the new Local Plan. This is the final stage of production and consultation before being heard at the Examination in Public timetabled for September 2017.

This stage is a culmination of significant work that has been undertaken by the Council since 2013. Over this time, it has been subject to review and comment by stakeholders, the strategy refined in response to points raised.

It is concerning, therefore, that such a significant allocation is being proposed at such a late stage in the process and after 4 years of preparation.

The proposed allocation for Junction 27 is, by its own recognition, of regional importance. It not only proposes a new retail and leisure destination, but significant levels of employment that necessitates further housing delivery as well as highway and transport infrastructure improvements. It impacts all aspects of the emerging Local Plan.

For development plans to be considered sound, they should, amongst other things, be based on a robust evidence base and should have considered alternative options to ensure that this is the most appropriate strategy.

This allocation has significant planning implications not only for Mid Devon, but the region as a whole. Previous iterations of the emerging Local Plan have not considered the Junction 27 allocation. It has only appeared in this version of the plan.

The Council's Local Plan Review website page states:



*"This consultation invites people to provide comments on the proposed modifications to the Local Plan Review Proposed Submission document. Any representations received at this stage will be submitted to the Secretary of State along with the Local Plan and other relevant documents. An independent inspector will then hold an Examination on the Local Plan which will take into account public and other opinion when judging whether the plan is sound."*

This statement indicates that the intention is for this draft of the Local Plan to be submitted to the Secretary of State in its current form, and without any changes being made in light of matters raised by consultees. This is particularly concerning as this does not present any opportunity for further comment or scrutiny from the public and stakeholders, other than at the Examination in Public.

Its introduction at such a late stage does not allow for the full and detailed consultation and public scrutiny that one would expect for an allocation of such importance. With inclusion at such a late stage, other authorities will not have been able to comment on its wording, and the public have not been able to view any such comments to inform their own view. There is a concern, therefore, that this does not present a strategy that meets cross-boundary issues at the regional level.

Without the benefit of such discussion, scrutiny, and the opportunity to make changes before submission, this allocation may not be the most justified and effective strategy for Mid Devon and the region as a whole.

### **Evidence Bases**

Junction 27 comprises an "out of town site" in terms of the National Planning Policy Framework categorizations ("a location out of centre that is outside the existing urban area"). Therefore, in terms of general sustainability and policy pertaining to retail (and other town centre uses), it is, in principle, the least appropriate location for development.

In addition, development of the scale and type proposed would establish a wholly new destination which, de facto, would introduce a new and alternative destination for activities which may already take place in a centre or may do in the future. Therefore, we respectfully suggest that the evidence base in support of the proposed allocation should be particularly robust.

In our client's opinion, the evidence base is not sufficiently robust for the following reasons:

- The retail assessment in support of the proposed policy is not based on the most up to date evidence base. Principally, it is based on the Exeter Retail Study 2008. We are aware, however, that the Council have finalised the "Exeter & West End of East Devon Retail and Leisure Study 2016" which was published in December 2016. [NB we note that the Council's retained retail consultants, NLP, have reviewed the pre-publication version of the Greater Exeter Retail and Leisure Study]
- The assessments required for outlet centre retail are particularly specialised and differ from that of standard retail considerations. The approach depends on the scale and approach to controlling the type of retailers and goods sold. Until clear positions are established on these, any assessment should be considered "broad brush".
- The approach to the sequential test and specifically why the "designer outlet shopping centre" element should not be disaggregated is not fully justified. The Council's own retail consultants, NLP, notes that there is "less synergy" between the "designer outlet shopping centre" and the remainder of the Junction 27 proposals. Furthermore, it is acknowledged that were the "designer outlet shopping centre" disaggregated there would be sequentially preferable sites.

### **Dynamic Nature of Retailing**

The evidence base for Policy J27 reflects prevailing circumstances including in relation to the availability of potential alternative sites (the sequential test); shopping habits, expenditure rates, turnover levels and other proposed/committed schemes (retail impact) and viability issues (to support the case that the “designer outlet shopping centre” should not be disaggregated from the overall scheme).

Inevitably, these assumptions and factors will change over time and/or additional material considerations may arise. Therefore, we respectfully suggest that setting aside the broader concerns raised regarding the inclusion of a “designer outlet shopping centre” at Junction 27, the proposed policy should include the necessary safeguards.

These must ensure that, notwithstanding the emerging designation, any planning application including a “designer outlet shopping centre” is subject to up-to-date and comprehensive assessment addressing all relevant considerations including the sequential test and impact on the vitality and viability of any existing centres.

At one level, should it be the case that a sequentially preferable site is identified or the impact on a centre is “significantly adverse”, a planning application should be refused. At another level, an up to date assessment of retail impact, would also form the basis for controls on the nature of the “designer outlet shopping centre” and potentially any measures to mitigate residual adverse impacts.

### **Controls over the “Designer Outlet Shopping Centre”**

Paragraph 3.184d of the draft Local Plan states that:

*“Controls using legal agreements will be required to control the extent and types of use that take place on the site, particularly in respect of retailing which will be tightly controlled.”*

The nature of the “designer outlet shopping centre” is fundamental to assessing its role and any potential impacts on existing centres. In our opinion, the range and scope of controls envisaged should be expanded upon within the policy and explanatory text to set the parameters.

This could include controls precluding representation by certain retailers or types of retailers, goods categories (ranges and seasonality), levels of discount to Recommended Retail Prices, scale of overall floorspace, etc. In addition, we consider that a provision for regular monitoring to ensure the on-going effectiveness of controls should be considered. Furthermore, it should be explicitly stated that the results of an up to date retail assessment required at the application stage will inform the precise controls.

### **Cross Boundary Working**

It is not clear from the information presented that there has been adequate and effective joint working on cross-boundary strategic priorities.

Clearly, the creation of a leisure and retail development of this scale and nature will be of significantly more than local importance. Indeed, the draft policy itself acknowledges that it will be of regional significance. Therefore, it is important to ensure that development of the scale and type proposed comes forward in a manner which ensures, inter alia, that the its impact on vitality and viability of region’s centres are not adversely affected by the proposed development and other impacts are identified and assessed.

Further evidence on the assessment of how Mid Devon are working with Exeter City Council in respect of the Duty to Cooperate on cross-boundary issues is considered necessary.

### **Soundness and Effectiveness**

For the reasons set out above, The Crown Estate/TH Real Estate are of the opinion that the proposed allocation **fails** the tests of soundness set out in NPPF Paragraph 182.

### **Changes to Emerging Policy J27: Land at Junction 27**

The draft allocation states:

*"Development of the site should be brought forward in accordance with the terms of a detailed development brief, comprehensive masterplanning including at least two stages of public consultation and adoption of the Masterplan as a Supplementary Planning Document before any planning application for any part of the site is determined"*

If further evidence is submitted to justify the inclusion of a "designer outlet shopping centre" proposed in Policy J27, we respectfully suggest the following amendments to the allocation to ensure its robustness moving forward:

*"Development of the site should be brought forward in accordance with the terms of a detailed ~~Development Brief~~ **and** comprehensive masterplanning. **The Development Brief shall be informed by including** at least two stages of public consultation **and supported by a full Retail and Leisure Impact Assessment.** ~~and adoption of~~ **The Development Brief and Masterplan shall be subject to public consultation by the Council and adopted** as a Supplementary Planning Document before any planning application for any part of the site is **submitted. Any planning application which includes a "designer outlet shopping centre" should be accompanied by a full Retail and Leisure Impact Assessment determined**"*

These changes would not materially affect the deliverability of the allocation, but rather seek to ensure that the potential impact of the proposed scheme on centres is appropriately and adequately assessed at every stage of the plan making and decision making process.

### **Closings**

The Crown Estate and TH Real Estate has significant concerns relating to the proposed "designer outlet shopping centre" element of the proposed Junction 27 allocation and the impact that this may have on the vitality and viability of the existing and committed retail provision in Exeter City Centre.

The Crown Estate and TH Real Estate do not consider there to be sufficient evidence supporting the inclusion of this allocation at such a late stage in the plan making process, nor sufficient detail on the safeguards that need to be put in place. We therefore find the allocation **unsound** on the basis is that it is **not justified or effective**.

We reserve our position to appear on behalf of The Crown Estate and TH Real Estate at the forthcoming Examination in Public, and ask that we be added to the Council's consultation database and kept informed of proceedings.

We would welcome the opportunity to discuss the above in further detail with the Council, or provide additional information which would assist with the preparation of the Local Plan. Please contact Craig Blatchford ([REDACTED]) or Jon Bradburn ([REDACTED])

[REDACTED] to arrange this meeting.

Yours sincerely,



MONTAGU EVANS LLP