

PLANNING

Date: Monday 31 October 2016

Time: 5.30 pm

Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, Democratic Services Officer (Committees) on 01392 265107.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Membership -

Councillors Sutton (Chair), Lyons (Deputy Chair), Bialyk, Denham, Edwards, Foale, Gottschalk, Harvey, Mrs Henson, Morse, Newby, Prowse and Spackman

Agenda

Part I: Items suggested for discussion with the press and public present

1 Apologies

To receive apologies for absence from Committee members.

2 Minutes

To sign the minutes of the meetings held on 25 July, 5 September, 3 and 5 October 2016.

3 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item.

Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC**

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should wish to do so, then the following resolution should be passed: -

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

Public Speaking

Public speaking on planning applications and tree preservation orders is permitted at this Committee. Only one speaker in support and one opposed to the application may speak and the request must be made by 5pm on the Thursday before the meeting (full details available on request from the Democratic Services (Committees) Officer).

5 **Planning Application No. 16/0849/03 - Playing Field off Wear Barton Road, Exeter**

To consider the report of the Assistant Director City Development.

(Pages 5 - 38)

6 **Planning Application No. 16/0963/03 - Land bounded by Exeter Road and the Retreat Drive (Heritage Homes Office), Exeter Road, Topsham, Exeter**

To consider the report of the Assistant Director City Development.

(Pages 39 - 48)

7 **Planning Application No. 16/0972/03 - Land east of railway line between Apple Lane and A379, Apple Lane, Exeter**

To consider the report of the Assistant Director City Development.

(Pages 49 - 60)

8 **Planning Application No. 16/0872/03 - Former B&Q Store, Alphington Road, Exeter**

To consider the report of the Assistant Director City Development.

(Pages 61 - 76)

9 **Planning Application No. 16/0984/03 - Former B&Q Store, Alphington Road, Exeter**

To consider the report of the Assistant Director City Development.

(Pages 77 - 84)

- 10 **Planning Application No. 16/0993/03 - Former B&Q Store, Alphington Road, Exeter**
- To consider the report of the Assistant Director City Development. (Pages 85 - 90)
- 11 **Planning Application No. 16/0311/16 - 102 Merrivale Road, Exeter**
- To consider the report of the Assistant Director City Development. (Pages 91 - 94)
- 12 **Planning Application No. 16/0313/16 - 2 Oak Road, Exeter**
- To consider the report of the Assistant Director City Development. (Pages 95 - 98)
- 13 **List of Decisions Made and Withdrawn Applications**
- To consider the report of the Assistant Director City Development. (Pages 99 - 118)
- 14 **Appeals Report**
- To consider the report of the Assistant Director City Development. (Pages 119 - 120)
- 15 **SITE INSPECTION PARTY**
- To advise that the next Site Inspection Party will be held on Tuesday 22 November 2016 at 9.30 a.m. The Councillors attending will be Lyons, Denham and Newby.

Date of Next Meeting

The next scheduled meeting of the Planning Committee will be held on **Monday 5 December 2016** at 5.30 pm in the Civic Centre.

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on (01392) 265107 for further information.

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ITEM NO. 5

COMMITTEE DATE: 31 OCTOBER 2016

APPLICATION NO: 16/0849/01 **OUTLINE PLANNING PERMISSION**
APPLICANT: Mr Strang
Exeter College
PROPOSAL: Outline planning application for the development of up to 101 houses, a new sports pitch and changing facility, public open space including children's play areas and associated highways and drainage infrastructure at Wear Barton and reprovision of senior football pitch at Exwick Sports Hub. All matters reserved except for means of access.
LOCATION: Playing Field Off, Wear Barton Road, Exeter, EX2
REGISTRATION DATE: 04/07/2016
EXPIRY DATE: 29/08/2016

Members will recall that this application was deferred at the Planning Committee on 3 October 2016, without discussion, to assess the information contained within the recent publication of the draft Exeter Playing Pitch Audit.

HISTORY OF SITE

Planning permission (14/0283/03) was granted in 2014 for the installation of a boundary fence around the playing field. This permission has not been implemented but is still extant.

Planning permission for a similar proposal (15/0878/01) to this current planning application received a resolution that it would have been refused at Planning Committee in June 2016 for the following reasons:-

The proposal is contrary to the National Planning Policy Framework 2012 (paragraph 74), Exeter City Council Core Strategy 2012 CP10, Exeter Local Plan First Review 1995-2011 Policy L3 and L5 and Sport England's Playing Field Policy because the development will:-

- i) result in the loss of the openness of the site detrimental to the amenity value of the area; and*
- ii) it would result in the loss of a playing pitch site identified for retention and provides the opportunity for future recreational need and these losses are not being replaced by provision of equivalent value.*

The applicants have appealed the earlier proposal given the local planning authority's failure to determine the application within the statutory timescale. A Public Inquiry is scheduled for 6 December 2016.

DESCRIPTION OF SITE/PROPOSAL

The application site (3.99 hectares) is a playing field to the south of existing properties in Wear Barton Road, to the west of properties in Glasshouse Lane and north of the Riverside Valley Park. The site is currently owned by Exeter College who permit use by a local football team on two marked out football pitches. The site has been used by local residents for informal recreation. The site is predominantly flat but appears as a raised plateau when viewed from the Valley Park, although this view is partially obscured by existing mature vegetation. An area of open land fronts Wear Barton Road where the sole vehicular access is proposed to serve the development. In addition, the Wear Barton Road frontage contains a changing room facility, which is proposed to be demolished. Electricity power line(s) cross part of the southern section of the site.

This outline planning application proposes up to 101 dwellings over a site area of 2.77 hectares. In addition, it proposed to provide a full size football pitch, a new 5 a side playing pitch, a new changing room facility and associated car parking which is indicated within the

submitted illustrative plan to be located alongside the boundary with the Valley Park. This playing pitch and associated buildings/uses would occupy 0.72 hectares of the site. The remainder of the site (0.5 hectares) would be used as informal public open space, which would also include a children's play area.

This is an outline planning application with all matters reserved except for access. The proposed vehicular access would be centrally sited from Wear Barton Road between the existing changing rooms (scheduled for demolition and replacement alongside the new football pitch) and 8 Wear Barton Road.

The application also includes a proposed re-instated playing pitch at the Flowerpot Playing Fields which although referred to in the previous application was anticipated to be part of the Section 106 Agreement but was not within the red line of the application site.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The applicants have submitted a Design and Access Statement; Planning Statement; Statement of Community Involvement; Transport Assessment; Heritage Statement; Geo-environmental Phase 1 Desk Study Report; Flood Risk Assessment; Ecological Phase 1 Survey and Cirl Bunting Survey to support their application.

In addition, the applicant has recently provided further supporting information which includes a Booking Schedule/Demand Analysis (stating a 3% utilisation based on daily usage for 8 hours of the playing field and a projected bookings schedule for 2016/17 of 4% utilisation), a photographic record of the informal recreational usage of the site for an approximate four week period during August and September 2016; revised highway and layout plans and revised draft Section 106 Agreement; two Committee Reports from Taunton Deane Council (which state that an objection from Sport England is not a determinative factor in an application assessment but one of a number of material considerations) and a response to Sport England's objection dated 19 August. The main points raised to Sport England's objection are reproduced below with the full response and the applicant's covering letter attached as Appendices.

The applicant's supporting statement seeks to emphasise that the development would deliver the following recreational benefits:

- a. a replacement, full-sized footpath pitch, with a "good quality" specification*
- b. new changing facilities*
- c. a playground for younger children*
- d. two new marked-out, 5-a-side pitches (including equipment) (currently, there are none)*
- e. a new junior pitch (including equipment) at Flowerpot Lane*
- f. a new adult pitch (including equipment) at Flowerpot Lane*

The applicants specifically ask that the following points be taken into account to counter Sport England's objection.

a. Sport England asserts that the playing field is recognised as an important playing field for numerous sporting and recreational activities, and that it is used for informal recreation. This assertion is not borne out by any facts or evidence. In fact, the evidence shows the opposite, namely, that the land is hardly ever used for informal recreation and, other than the Dynamos, there is no demand for formal recreational use at Wear Barton.

b. It is a material factor that whilst the lawful planning use is currently as playing fields, the weight which can be given to that use is limited by the fact that the fields are privately owned and could be fenced in shortly. The extent to which a use can actually perform its function,

notwithstanding the lawfulness of that use, is relevant to the assessment of that land's planning characteristics.

c. Sport England acknowledges that there is a link between the College's proposals at Exwick and at Wear Barton. However Sport England incorrectly states that the Council "should not give any weight to this in their planning decision." With respect, it is for the decision-maker to decide what weight to give to this fact and the Council is allowed to take into account the College's wider proposals.

d. Sport England acknowledges that parts of the Wear Barton site have not been marked out for formal pitches for a few years. However, Sport England believes there is "potential" for pitches to be laid out. In response, the College can confirm that ever since the College's use of the site effectively ceased, the College has not been approached by any club wishing to use any unused part of the site. The facts show that there is no demand for these fields in their current form.

e. Sport England suggests that the adult football pitch will not meet the recommended size. This is wrong. The College would accept the imposition of a planning condition that required the provision of an adult pitch 106m x 69m (including safety run off), and a pitch of that size could be provided on the site.

f. The College does not accept Sport England's assertion that the pitch will not allow for rest and rotation. The new pitch will be laid out to Sport England's own "good standard" specification. Indeed, the new pitch will be less affected by bad weather than the other grass pitches in Exeter and will be provided and maintained to a high standard. Any concerns Sport England might have about the standard of the new pitch, or the proposed changing facilities will be addressed by suitable planning conditions and obligations.

g. Sport England implies that the College's off-site mitigation at Exwick may adversely affect the Ultimate Frisbee pitch. It will not. The College has no proposals to terminate or otherwise affect the use of this pitch. In fact, the College has already met the Ultimate Frisbee club to discuss how the pitch can be improved and allowing access to changing facilities for players.

h. Sport England refers to a planning appeal decision (Ref: APP/U/4610/A/12/2176169). The first point to note about this appeal is that it was allowed. The appeal decision merely emphasises that for a proposal to comply with paragraph 74 of the NPPF, it is necessary for an applicant to offer replacement provision that is equivalent or better in terms of quantity and quality in a suitable location. The College acknowledges this requirement and contends, rightly, that the proposed re-provision, both on and off-site (as described above), will result in replacement by equivalent or better provision in terms of quantity and quality. This is a matter of fact, not planning judgment.

i. Sport England refers to work on the draft Exeter Playing Pitch Strategy. However, its comments in relation to Wear Barton are incorrect and out of date. What this does confirm, however, is that there is an opportunity to provide a better playing surface than currently exists.

j. Sport England comment that the College's proposals will "impact" on the Dynamos' "ability to grow". The Dynamos do not share this opinion. To reiterate, the Dynamos positively support the proposals and welcome the improved playing surface, which they have confirmed will meet the Club's needs, and the security the proposal will deliver.

k. Sport England refers to cricket. In response, the College would reiterate that it has never been approached by any cricket club wishing to use Wear Barton. Further, the College would point out that it has made provision at Exwick for cricket provision. (Issues at Winslade, East Devon, will be for that landowner to address.)

In conclusion, the application is about better provision, more provision, public access and long-term benefits for Exeter's public recreation offer.

REPRESENTATIONS

1 letter of comment from the Countess Wear Dynamos stating that the proposals '*...will provide a more long term base for our teams operating at the field, as well as offering a new changing room facility more specifically focused on our requirements*'.

185 letters/emails of objection have been received reiterating previous concerns. Principal comments raised:

1. Contrary to findings of the Strategic Housing Land Availability Assessment;
2. Create a precedent for development on other playing pitches;
3. Unfair that development at Countess Wear will fund sports improvement at Exwick;
4. Loss of green open space;
5. Loss of playing field will reduce areas for children to play;
6. Reduction in number of sports pitches from 3 to 1, will limit existing clubs ability to expand;
7. Alternative playing fields at King George playing fields too far away and across a busy road;
8. Loss of open space/playing pitches will have a negative effect on public health and general well-being;
9. Proposed location of open space under pylons will restrict use;
10. Limit the site for community use ie football tournament, fun days etc;
11. Exacerbate the existing problem of unpleasant odours from the nearby sewer treatment works;
12. Increase traffic generation within an already congested road network;
13. Create potential highway safety implications for Glasshouse Lane/Topsham Road;
14. Greater parking problems for existing residents;
15. Increased use of local roads to be used as a 'rat run' from Topsham Road to Bridge Road;
16. Greater traffic will increase pressure on existing roads which already require repair;
17. Increased levels of air pollution;
18. Lack of cycle routes within the scheme;
19. Increased dangers to pedestrian especially children from greater traffic generation;
20. Construction traffic will cause problems of increased traffic, noise, dust and disruption to the area;
21. Overdevelopment, too many dwellings for the site;
22. Indicative layout shows dwellings too close to existing houses;
23. Loss of outlook;
24. Potential for overlooking and loss of privacy;
25. Football pitches should be adjacent 100 Club to promote greater/more accessible usage;
26. Poor level of amenity for future residents;
27. Increase pressure on existing oversubscribed doctor/dentist/hospital/school places;
28. Loss of wildlife habitat;
29. Increased risk of flooding;
30. Lack of community centre in the area;
31. Contrary to original lease agreement that College retain the area for recreational use.

CONSULTATIONS

County Head of Planning Transportation and Environment raises no objection subject to the imposition of suitable conditions. This application follows a similar application on the site made in 2015. From a highways perspective our comments on the previous application are still applicable. Detailed comments are provided below.

Traffic Generation

The submitted TA suggests two way peak hour vehicular trips of 0.51 (AM Peak - 0.40 Outbound/0.11 Inbound and PM peak – 0.18 OB/0.33 IB). These trip rates are approximately 10% higher than those used in the Seabrook Orchards application, Newcourt Access Strategy and in the County's East of Exeter modelling work and therefore considered acceptable. Applying this to the proposed development gives rise to 50 peak hour vehicle

trips. In addition, although not set out in the TA, the proposed development would be expected to generate approximately 30-35 peak hour walking and cycling trips.

Vehicular trips have been distributed onto the road network based upon the 2001 Census TTW data. This is shown on Figures A15 and Figure A16 and show 40 trips through Countess Wear junction in the AM peak. However, considering the most recent TTW work data and local observations, these are felt to overestimate the traffic through Countess Wear Roundabout. Instead, more traffic would be expected to use Topsham Road east and Admiral Way and therefore the actual impact at Countess Wear Roundabout would be closer to 25-30 two way peak hour trips.

Junction Impact

The submitted TA has indicated the impact of the development on three key junctions for a 2021 forecast year:

- The priority junction between on Topsham Road with Glasshouse Lane and;
- The signalised junction between Topsham Road and Higher Wear Road;
- Countess Wear Roundabout.

The submitted modelling shows the priority junction on Glasshouse Lane to work comfortably. Although this does not take into account the queuing from Countess Wear roundabout that occurs in the peak periods, when queuing blocks back to here, cars will be able to pull out of the minor arm to join the slow moving traffic on Topsham Road. Although this situation is not ideal, it occurs elsewhere across the city and is not unsafe. The additional development traffic making this movement, expected to be around 20 vehicles an hour, is not a cause for concern.

The signalised junction of Topsham Road/Admiral Way/Wear Barton Road is predicted to operate within capacity in future, and the additional traffic from this development does not change that. Again, blocking back from Countess Wear in the AM peak is not considered in the analysis. Nevertheless, with traffic to and from Countess Wear roundabout primarily expected to use the Glasshouse Lane junction the magnitude of additional development traffic on Wear Barton Road, 15 vehicles per hour – corresponding to one vehicle every three signal cycles, is not expected to change this.

Although additional travel demand through Countess Wear roundabout is a concern, this magnitude is low and is not expected to result in a severe impact. Furthermore, given the site has excellent access to the National Cycle Network/riverside cycle routes and is well served by regular public transport services there are opportunities for modal shift and peak spreading to further help reduce the vehicular impact from this development.

Access

Vehicular access to the site is proposed via a new raised table priority junction onto Wear Barton Road, as shown in Drawing SK010 Rev C. The proposed raised table would replace the existing speed hump. The geometries of the junction, including curve radii have been reduced in accordance with Manual for Streets design ethos as appropriate in a residential environment.

The access road into the site comprises a 5.5 metre width carriageway, with footways on both sides and a segregated cycle facility to the east of the access road. The cycle facility is proposed to continue through the site and into the south west corner of the site and onto Glasshouse Lane. A new bus shelter is also proposed on Wear Barton Road, serving passengers from both the site and existing residences. The overall concept is acceptable, although the detailed design will need to be progressed through a S278.

It is hoped that the cycle route could be extended through the whole site to the rejoin Wear Barton Road through the area of Garages at the eastern end of the site. It is understood that these garages are owned by ECC and the potential for this has been raised. Such provision would provide a significant improvement to this section of the Exe Estuary Trail and it is hoped that all parties will use their best endeavours to enable this to be achieved.

Wider Network

To enhance pedestrian and cycle connectivity to the wider network, including the routes to and from Newcourt Primary School and rail station, the applicant is proposing to upgrade the pedestrian crossing provision at the Topsham Road/Newcourt/Higher Wear Road signalised junction. This includes:

- providing a pedestrian/cycle signal stage on the existing informal crossing of Topsham Road on the western arm,
- addition of an informal crossing point of Topsham Road on the eastern arm.

An indication of these changes is shown on drawing SK03B and the final details will need to be approved through a S278.

These changes will enhance the safety of routes from Countess Wear to the north, and also improve access in the reverse, particularly for cyclists from Newcourt heading towards the Exe Estuary Trail.

Internal Roads and Layout

Well-designed residential streets are central to sustainable development and therefore the design of the internal road layout must accord with the principles of Manual for Streets and appropriate sustainable design guidance. The applicant is advised that car parking standards are set out in the Exeter City Residential Design Guide and that secure cycle parking facilities will need to be in accordance with Chapter 5 of Exeter City Council's Sustainable Transport Supplementary Planning Document. Reflecting the sites proximity to a number of primary cycle routes these standards should, where practical, be exceeded. As an outline application these details are reserved for approval at a later stage. However, to ensure a suitable layout it is recommended that the applicant liaise with the highway authority prior to any application for reserved matters approval.

Travel Planning

In accordance with paragraph 36 of the NPPF the development will be required to have a Travel Plan. DCC is currently adopting a new approach for residential travel planning in the Exeter area with contributions paid directly to the Council for them to implement the Travel Plan and its measures. Consequently, a contribution of £500 per dwelling should be secured as part of any S106 Agreement.

Other Matters

A condition is also recommended to ensure that appropriate facilities for all construction traffic are provided on site before the commencement of any part of the development hereby approved. To ensure that appropriate restrictions are implemented across the site a contribution of up to £5,000 is recommended towards the cost of relevant Traffic Regulation Orders.

Summary

Although the additional traffic from an unallocated site through Countess Wear Roundabout is undesirable, it is situated in an existing urban area that is served by public transport and within walking and cycling distance of schools and shops and therefore, from a transport perspective, is a sustainable site.

National Policy is for the presumption of sustainable development and for developments to maximise the sustainable transport solutions in the area. This development proposes a number of enhancements to the local sustainable transport provision, its impact is not considered severe, safe and suitable access is provided and therefore it is felt that the development could not be refused on transport grounds. Therefore, subject to appropriate contributions and conditions being attached in the granting of any consent, no objection.

Sport England object to the planning application in line with Sport England national policy on playing fields and as set out by Government in the NPPF (paragraph 74). Detailed comment are provided below:-

Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England'.

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

In order for the principle of the development to be considered acceptable, it must accord with Sport England's Playing Field Policy, and the National Planning Policy Framework.

The Proposal and Impact on Playing Field

The application form clearly and rightly states that the application site's existing use is playing fields. The site is in College ownership after being transferred from the Local Education Authority. Nowhere within any policy can I find any distinction between publicly accessible playing fields or education playing fields. The playing field site measures 3.99ha (agents dimensions).

The playing field site is recognised as an important playing field in the City for its users given its pitch quality including natural drainage, size (3.99ha), shape and topography for numerous sporting and recreational activities including use as informal open space for the wider community. A local football club with youth teams use the site (existing changing pavilion) and it is used for informal recreation.

There is confusion within the proposal with some documents submitted being ones unaltered for a similar proposal Exeter City planning ref 15/0878/01, subject to a live planning appeal.

Other documents within this planning application make reference to the provision of a football pitch off-site including a plan showing a red line at Flowerpots Exwick (land in ownership of the Council).

The application has no direct link to the proposed 3G AGP at the College's Exwick site (former Civil Service sportsground). However, that application at time of writing has a resolution to approve but no planning consent can be granted until the replacement cricket pitch issues are resolved satisfactorily. In the Planning Statement (para 8.1.20) it states "Further the proposal will provide a significant part of the finance needed to deliver the floodlit, publicly accessible, 3G at Exwick and other infrastructure to support the provision of quality courses at the College". The covering letter to the application makes it clear that this application amounts to retrospective enabling development for the College. For the avoidance of doubt, the NPPF does not support enabling development in this context. Enabling development is only mentioned in the NPPF where it is necessary to secure the conservation of heritage assets and that is clearly not the case here. The local planning authority should not give any weight to this in their planning decision.

Aerial Photos of the Playing Field Site

The submitted 'existing site plan' shows two football pitches 100m x 65m and a smaller 100m x 50m.

This 2011 Google Earth image show the approx. pitch markings for football (95m x 55m approx.), although a further set of white lines are to the east of the site:

This 2007 Google Earth image shows 4 x 'winter' playing pitches. Two football (80m x 50m and 100m x 60m approx.) and two rugby pitches (120m x 45m and 95m x 45m approx.). This 2003 Google Earth image is similar to the 2007 image showing 4 x 'winter' playing pitches. Two football (88m x 48m and 96m x 58m approx.) and two rugby pitches (120m x 61m and 83m x 49m approx.):

Although it is recognised that parts of the application site may not have been marked out for formal pitch team sports for a few years, given that the playing field land remains

undeveloped it still has the potential to be brought back into an active use for sport and the potential to meet the community's needs if reinstated to playing pitch use. In area terms this is an additional two winter pitches (as per the 2003 and 2007 images above) as well as summer sports including cricket and athletics. The site itself still therefore has a value as playing field land resource for sport and recreation and would in our view still be afforded protection through the NPPF, Sport England Playing Field Policy and local plan policy.

Proposed Mitigation

On-site - We note that the applicant is proposing to retain one adult football pitch with new changing block in the proposal. The proposed site plan shows a football pitch 95m x 50m (we have measured this as 86m x 45m) which is not to the recommended FA size for adult play. The recommended playing pitch for adult football is 100m x 64m or 106m x 69m with safety run offs. The pitch will be constrained not allowing for rest and rotation of areas of the playing pitch. The application indicates a new changing block (no detail) at the application site.

In the Planning Statement (para 2.5) it states that “the re-provided pitches would be superior playing surfaces to that existing...”. No details have been submitted to verify this. We note that pitch quality was looked at as part of the Playing Pitch Strategy (see below).

We raise concern regarding proximity to housing, overuse of the site and long term viability of a single pitch site if permission is granted.

Off-site at Flowerpots/Exwick – This is an existing playing field site. In 2007 the area in question was marked out for adult football. It is currently marked out for Ultimate Frisbee. This is the only pitch in the South West and has dimensions of 100m x 37m.

Assessment against Sport England Policy / National Planning Policy Framework (2012)

The references in paragraph 14 of the National Planning Policy Framework (NPPF) to specific policies which restrict development are important and should provide for greater protection for sport through the implementation of paragraph 74 of the NPPF.

The accompanying footnote 9 to this paragraph only provides some examples of such ‘restrictive’ policies and does not attempt to be a complete list. While the footnote does not specifically refer to paragraph 74 it can be regarded as falling within the group of specific policies in the Framework that indicate development should be restricted (Land of Clifton Drive, Sealand Road, Cheshire see APP/A0665/A/13/2200583 paragraph 47).

This is significant in highlighting the importance of paragraph 74 as these references in paragraph 14 relate to both plan making, along with decision taking where the development plan is absent, silent or relevant policies are out-of-date.

Playing fields have been given greater protection and recognition by the Government through the NPPF (paragraph 74):

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

It should be noted that the strength of paragraph 74 of the NPPF has been tested at appeal. In an appeal (Land off Lythalls Lane Coventry ref APP/U4610/A/12/2176169) the Planning Inspector considered what constitutes a playing field and whether there would be a requirements of replace this playing field under the provisions of paragraph 74. In that case, it was held that:

...there is no physical feature that makes the site inherently unsuitable for use for outdoor sport...'

There is no distinction between privately and publicly available sports provision in the National Planning Policy Framework. In paragraph 74, it is specified that existing open space, sports and recreational buildings and land, including playing fields should not be built upon unless various criteria are complied with. This is sufficiently broad to cover the last use of the relevant part of the application site.'

On that basis of the above, the PINS held that, in accordance with Local Plan Policy and National Planning Policy Framework, compensatory replacement provision is necessary and should be provided as part of the scheme.

It therefore falls that compensatory replacement provision should be provided as part of the current planning application in order to meet the requirements of the NPPF. It should also be noted that, preventing sports use of the site in the future, will not prevent it from being considered under the provisions of paragraph 74 of the NPPF, as the lawful use of the site shall remain as a playing field land until such time as permission is formally granted for some alternative use.

Sport England's Playing Field Policy

The site is recognised by the sporting community as a large significant playing field that needs protecting from development. As stated above, the application results in the substantial and significant loss of playing field land (3ha) without adequate mitigation.

The proposed housing development is neither ancillary to the function of the playing field, nor on land incapable of forming a pitch or part of a pitch. As such, exceptions E2 and E3 of Sport England's Policy do not apply in this case.

Sport England does not consider the application as meeting exception E4 as the proposed playing field land to be retained (0.72ha) will be physically constrained and will only be capable of accommodating one football pitch. Currently shown to be below the recommended size for football. Sport England raise concern over proximity to the proposed housing and overplay issues. A single pitch site poses issues regarding long term viability. The off-site mitigation is a site that is already playing field land marked out as an Ultimate Frisbee pitch.

Similarly, the development is for housing and not for any sporting facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields. Exception E5 is therefore not applicable.

In terms of assessing the proposed development against exception E1, there is no Exeter Playing Pitch Strategy currently in place (see below). Overall and in light of the NGB comments (below), it is not justified that there is an oversupply of playing field provision which would justify the loss of playing field land as proposed. The development therefore fails to meet exception E1.

The proposed development fails to meet any of the exceptions to Sport England policy. The principle of the housing development with inadequate mitigation is therefore considered unacceptable to Sport England policy terms.

The Exeter Playing Pitch Strategy

Work is well underway to develop an Exeter Playing Pitch Strategy to meet the NPPF requirements of paragraph 73 for playing fields/playing pitches. The Steering Group are close to agreeing Stages B&C with a direction of travel for the development of the strategy taking on board scenario testing. In the completed audit work the application site notes 2x football pitches on site that are 'available for community use'. Those pitches score 73 and 63 (out of 100) on pitch quality at the time of the pitch inspection. These scores rate the two existing pitches as 'standard' quality. Pitches that score over 80 are rated as 'good'.

It is too premature to conclude that there are playing field land sites in the City that are surplus to requirements and can be lost to alternative uses.

National Governing Bodies Comments

We have sought the views of the FA and they advise that here is a large loss of land that could be used for playing pitches. The Exeter Playing Pitch Strategy is not yet in place to support any loss of playing field land. There is a note in the D&A statement, page 17, where it notes 'Senior football pitch (dimensions as per existing pitch)'. The pitches that have been

used recently (up to 3) have been marked out in an orientation that is 90 degrees to the proposed pitch, so this is an odd statement and somewhat misleading. Further concerns are:

- a. Pitch to be provided is not sufficient to meet current and future demand, it also does not meet the FA recommended pitch size for adult football, and would be expected to be met.
- b. Public open space requirement on this pitch area – this will lead to overuse and possible misuse of the site.

There are significant planned population increases in Exeter and this will increase the demand for football and require additional facilities, so it is hard to imagine a scenario where playing field land can be lost whilst the population and subsequent demand for playing pitches will increase.

The site is used for both youth and senior football according to the Devon County FA. Countess Wear Dynamos currently operate 2 youth teams and senior team. This development will impact on the clubs ability to grow, which it will do with the planned population increase.

The ECB advise that currently the site is not used for cricket so no direct loss. However, it is currently a large playing field that might be able to accommodate cricket in the future. The emerging PPS work has identified a current shortfall of cricket grounds within Exeter. This doesn't take into account any scenario testing where most cricket clubs have very limited security of tenure. It also doesn't take into account the sites at risks, i.e. Exwick and Winslade Park (although it is in East Devon it does serve the people of Exeter due to its close proximity to the boundary). On this basis there is a need to protect existing sites and also identify new venues for cricket. The identification of any potential sites has not been undertaken and is the next stage of the PPS work.

Conclusion

The planning use of the land is for playing fields. This use has not expired. The site has value as playing field land resource for sport and recreation and would in our view still be afforded protection through the NPPF, Sport England Playing Fields Policy and local plan policy. There is no policy distinction in terms of the ownership of land. The application proposes a significant and substantial loss of playing field land - 3 hectares to residential use. Once lost, lost forever.

The applicant has failed to provide suitable mitigation. The proposed playing field land to be retained will be physically constrained and will only be capable of accommodating one football pitch. Currently shown to be below the recommended size for football. Sport England raise concern over proximity to the proposed housing and overplay issues. A single pitch site poses issues regarding long term viability. The proposal off-site at Flowerpots/Exwick is already playing field land, currently with a pitch marked out on it for Ultimate Frisbee. It is clearly not new provision of playing field land.

In light of the above, Sport England **objects** to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 74 of the NPPF.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's objection then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

Housing Development Officer comments that 35% of the total dwelling must be affordable in line with the Affordable Housing SPD, which for a 101 dwellings would be 35 with a financial contribution needed for the remaining 0.35. In accordance with the Affordable Housing SPD at least 70% of the affordable units are required to be social rent (25 units) the remainder to be intermediate affordable housing (10 units); the scheme to achieve a representative mix of market dwelling types and sizes (including number of bedrooms); 5% (2 units) of the affordable housing to be wheelchair accessible in accordance with the

Council's Wheelchair Housing Design Standards and affordable housing to be spread out across the site in clusters of no more than 10 units.

Environmental Health Officer comments that this development will generate traffic that will pass through the Air Quality Management Area and as such an Air Quality Management Assessment will be required. The site is 100 metres from the Countess Wear Sewage Treatment Works. The proposed houses will be as close to the works, or close to it than the existing closest dwellings (depending on the development layout). This will introduce a significant number of new receptors close to a facility that has the potential to cause odour nuisance. No statutory odour nuisance has been witnessed to date, but complaints about the works are received on a regular basis both by the Council's Environmental Health Dept and SWW and as such odour from the sewage works is likely to affect the occupants of this site. In order to understand the likely frequency and extent of the impact on future occupant, the applicant should be asked to conduct an Odour Impact Assessment. *(Request for Odour Impact Assessment and Air Quality Impact Assessment made but considered unnecessary by the agents, particularly given the comments of SWW in respect of odour -14 Sept 2015).* If planning permission is granted conditions are requested in respect of construction hours, the submission of a Construction and Environmental Management Plan (CEMP), a contamination report and noise impact assessment for the playing pitch and use of the changing rooms.

County Flood Risk Management Team raise no objections to the outline surface water management strategy following the receipt of further information submitted by the applicant and subject to suitable pre-commencement planning conditions being imposed.

Historic England raise no observations.

Heritage Officer comments that the desk top study and geophysical survey have not identified any known or substantial remains within the site, although prehistoric flints have been found on the site and in the vicinity. As many prehistoric remains can be too slight in character to be easily identifiable by geophysical survey alone, it remains possible that such remains may still be present on this site. If they do survive then they are likely to be relatively slight in character and already truncated by past ploughing and, although potentially of medium significance, their presence would not represent a meaningful constraint upon the principle or form of development proposed on this site, though they should be properly identified and recorded through archaeological works as a condition of the consent.

RSPB comment on the need to provide bird boxes in accordance with the Residential Design Guide SPD; need for further information to assess whether the proposed development's will be likely to have any adverse impact of the Exe Estuary SSSI, SPA and Ramsar site and further details of mitigation measures to ensure that there will be no direct impacts (pollution, disturbance) on the estuary habitats and birds.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework (NPPF):-

4. Promoting sustainable transport
5. Supporting high quality communication infrastructure
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment

Paragraph 11 - Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 14 - At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through plan-making and decision-taking...For decision taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

Paragraph 49 - Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

Paragraph 74 - Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

Exeter Local Development Framework Core Strategy:-

- CP1 – Providing for Growth - Spatial Strategy
- CP3 – Housing Distribution
- CP4 – Housing Density
- CP5 – Meeting Housing Needs
- CP7 – Affordable Housing
- CP9 – Strategic Transport Measures
- CP10 - Meeting Community Needs
- CP11 – Pollution
- CP12 – Flood Risk
- CP14 – Renewable and Low Carbon Energy in New Development
- CP15 – Sustainable Construction
- CP16 – Green Infrastructure
- CP17 – Sustainable Design
- CP18 – Infrastructure

Exeter Local Plan First Review 1995-2011:-

- AP1 – Design and Location of Development
- AP2 – Sequential Approach
- H1 – Search Sequence
- H2 – Location Priorities
- H5 – Diversity of Housing
- H6 - Affordable Housing
- H7 – Housing for Disabled People
- L3 - Protection of Open Space

Development of Open Space will only be permitted if:

- a) *the loss of open space would not harm the character of the area; and*

- b) *the open space does not fulfil a valuable recreational, community, ecological or amenity role; and*
- c) *there is adequate open space in the area; or*
- d) *the loss of open space is outweighed by its replacement in the area by open space of at least equivalent recreational, community ecological or amenity value (including, in particular, the provision and enhancement of equipped play space).*

L4 - Provision of Playing Fields

L5 - Loss of Playing Pitches

Development that would result in the loss of a playing field will not be permitted if it would harm recreation opportunities in the area.

T1 – Hierarchy of Modes

T2 – Accessibility Criteria

T3 – Encouraging Use of Sustainable Modes

T5 – Cycle Route Network

T9 – Access to Buildings by People with Disabilities

T10 – Car Parking Standards

C5 – Archaeology

LS1 – Landscape Setting

EN2 – Contaminated Land

EN4 – Flood Risk

EN5 – Noise

DG1 – Objectives of Urban Design

DG4 – Residential Layout and Amenity

DG5 – Provision of Open Space and Children’s Play Areas

DG6 – Vehicle Circulation and Car Parking in Residential Development

DG7 – Crime Prevention and Safety

Development Delivery Development Plan Document (Publication Version):-

This document represents a material consideration but has not been adopted and does not form part of the Development Plan.

DD1 - Sustainable Development

DD8 - Housing on Unallocated Sites

DD9 - Accessibility, Adoptable and Wheelchair User Dwellings

DD13 - Residential Amenity

DD20 - Sustainable Movement

DD21 - Parking

DD22 - Open Space

DD25 - Design Principles

DD26 - Designing Out Crime

DD28 - Heritage Assets

DD30 - Green Infrastructure

DD31 - Biodiversity

DD33 - Flood Risk

DD34 - Pollution

Exeter City Council Supplementary Planning Documents:-

Residential Guide

Planning Obligations

Affordable Housing

Sustainable Transport

Archaeology and Development

Sport England's Playing Field Policy:-

Policy Exception E1:

A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment, and the site has no special significance to the interests of sport.

Policy Exception E2:

The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use.

Policy Exception E3:

The proposed development affects only land incapable of forming, or forming part of, a playing pitch and does not result in the loss of or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing areas of any playing pitch or the loss of any other sporting/ancillary facilities on the site.

Policy Exception E4:

'The playing field or playing fields, which would be lost as a result of the proposed development, would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development'.

Policy Exception E5:

The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields'.

OBSERVATIONS

Introduction

The application site is identified in the Exeter Local Plan as Open Space. Consequently the site is covered by Local Plan Policy L3 which relates to the impact of development on open space and given its use as a playing field, Policy L5 which applies to their loss as a result of development. The proposed scheme seeks to redevelop the site, in part, for residential use with the remainder of the site containing a full sized football pitch, a 5 a side pitch, childrens play area and associated changing rooms/designated parking areas. The proposed relocated football pitch is wholly acceptable representing a continuation of the existing use on the site. The proposed housing represents a potential conflict with the local plan policies which seek to protect and enhance playing pitch provision in the city and therefore an assessment against the relevant criteria contained within these policies is needed. To make this assessment it is necessary to understand the applicant's overall strategy to playing pitch provision in the City, specifically in respect of the Countess Wear site and at Exwick. This background information is important to note as it underpins the applicant's supporting case when assessed against the relevant national and local development plan policies.

Applicant's Playing Pitch Proposal Countess Wear/Exwick/Flowerpot

The application will involve the reduction in the playing field area by approximately 66% to accommodate the proposed housing development. The submitted plans indicated that currently two full size pitches can be achieved on the site, although the plans also indicate that this still leaves a significant area for informal recreational and aerial photographs taken in 2006 indicate three sports pitches and a junior pitch were accommodated on the site at that time. The development of the site for housing development will prevent the site from being capable of use for two full size playing pitches. The applicants have received a Committee resolution to approve a 3G artificial pitch at the Exwick Sports Hub (15/0870/03) which is important, in the applicant's view, in demonstrating the overall provision of playing pitches, both in terms of number and quality which is being proposed. In summary, the applicants are proposing the retention of one full size football pitch at Wear Barton Road; the replacement of the 'lost' Wear Barton Road pitch at Flowerpots Playing Field site (overlying the existing frisbee area); the creation of a new artificial pitch at Exwick Sports Hub and a proposed replacement cricket pitch, 'lost' to the new artificial pitch, within Flowerpots Playing Fields. In addition, Exeter College are seeking to undertake the management of the Flowerpot Playing Fields from the Council under a separate land lease.

The applicants have submitted further information since the previous Committee resolution to refuse planning permission. This current application is similar to the previous scheme (15/0878/01) although the reinstated playing pitch overlaying the frisbee area at Flowerpot is now formally included within the application site for consideration. In addition, the applicant has also provided booking schedules for the Wear Barton pitches and photographic evidence indicating usage and a detailed response to Sport England, which is summarised in the supporting information section and attached in full as an Appendix.

Development Plan and NPPF Policy Context

Initially it is necessary to consider the proposed residential use against relevant national and development plan policies, particularly in light of the appeal decision at Exeter Road, Topsham. The principal finding of this Inspector's decision letter was to conclude that the Council could not demonstrate that it has a five year supply of deliverable housing sites. This conclusion is important as NPPF paragraph 49 states that relevant policies for the supply of housing should not be considered up to date.

Legal advice has further clarified how this planning application should be determined following confirmation that the Council's policies for the delivery of housing are deemed out of date as a result of the Council not having a five year housing supply. The legal view is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise and this will depend on assessing whether the proposal is in accordance with the Development Plan (as a whole) and if it is not, on the weight afforded to the relevant Development Plan policies under consideration both in themselves and relative to the other material considerations.

i) Assessment of relevant Local Plan Policies

Notwithstanding NPPF paragraph 49 in respect of out of date planning policies (which it is accepted is applicable here because of the five year shortfall), recent case law has maintained that the starting point for considering planning applications is still the Development Plan as recognised in paragraph 11 of the NPPF, which states that planning permission must be determined in accordance with the Development Plan unless material consideration indicate otherwise. This maintains that the local planning authority must still continue to weigh up all the relevant Development Plan policies irrespective of whether they are now deemed out of date. The fact that a policy is out of date does not mean it is dis-applied and nor does it mean that the policy must carry only limited weight. Weight is a matter for planning judgement depending on the facts of the case. For this application the most relevant policies are L3 'Development on Open Space' and L5 'Loss of a Playing Field' and it is against these policies which the application is primarily assessed. Core Strategy CP10 supports those policies but it is accepted that if policies L3 and L5 were satisfied, CP10 would also be satisfied. The text of both the saved Local Plan policies are reproduced within the Committee report. Given that the proposal results in the loss of approximately two thirds of the site to residential development it does conflict with Policy L3 and would reduce the site's recreational and amenity value in the area. The site currently provides an area of actively used recreational open space, which contributes to the areas spacious and green character particularly when viewed from alongside an existing public footpath and parts of the Wear Barton Road frontage. It is not considered that equivalent replacement provision for all of these attributes is being made within the area. The application is also in conflict with Policy L5 as the development of the site would harm recreational opportunity, with the loss of the existing open land potentially preventing future playing pitch creation. As a consequence there is also non-compliance with CP10 which seeks to protect recreational facilities. The proposal is therefore not in accordance with the Development Plan.

ii) Planning weight afforded to out of date Development Plan Policies

NPPF paragraph 49 renders the Council's policies in respect of housing delivery out of date and consequently the weight attached to relevant policies requires reassessment. Recent legal judgements have clarified that it is still for the decision maker (ie the local planning authority) to make the planning assessment as to how much weight each policy is given. However what the Courts have made clear is that the lack of a 5 year housing supply may

influence how much weight these out of date development policies are given. This is dependent on the specific scheme and will include for example the extent of the Council's 5 year supply shortfall, what the Council is doing to address this issue and the particular purpose of the restrictive policy, in this instance Core Strategy Policy CP10, Local Plan Policy L3 and Policy L5. The Council currently has an approximately 2.5 year supply of housing and the intention to address this matter will rely on co-operation with neighbouring authorities, although this is unlikely to occur in the short term. Given these circumstances it is considered that the restrictive policies would be afforded less weight given the limited progress made in respect of the housing shortfall. However, the protection of open space and recreational provision remains a strong theme of the NPPF and the Development Plan policies themselves are generally consistent with the approach in the NPPF and would ordinarily carry due weight in line with paragraph 215 of the NPPF. In the circumstances, it is considered that the Development Plan policies should still carry moderate weight.

iii) Interpretation of NPPF paragraph 74.

Applicant's view

The applicant's interpretation of NPPF paragraph 74 argues that the three criteria which allow exceptions to the loss of playing fields should be considered in individual terms rather than cumulatively. The applicant is therefore relying on the second criteria to support their case. This states that '*...playing fields, should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location...*' The applicant is stating that the combination of the retained pitch coupled with the new provision of a new pitch at Flowerpot results in no loss of playing pitches in terms of overall number and therefore the quantitative element of the NPPF paragraph 74(ii) is satisfied, although as previously stated the site has the potential for three sports playing pitches. Similarly the applicants has stated that the primary purpose of the Wear Barton Road application is to generate land receipts to fund a replacement pitch not only on the site and the new pitch at Flowerpot but also for a new 3G artificial playing pitch at Exwick Sports Hub and the associated replacement cricket pitch. The applicant's response to Sport England indicates that for the 3G pitch at Exwick to go ahead without funding from the application site, it would be necessary for the applicant to defer on other schemes, although no details are provided of what these scheme might be or what the timescale of deferral would be. The applicants has stated that these facilities will represent an improved playing pitch provision city wide and in particular the high quality artificial pitch will create a facility which is currently under provided for in the city. Consequently the applicant are stating that this satisfies the quality element of paragraph 74 of the NPPF.

Officer's response

Legal advice has clarified the role of NPPF paragraph 14 in respect of the out of date policies for this application. The advice concludes that the correct interpretation of this paragraph needs to have regard its concluding sentence which requires the decision taker (ie the local planning authority) to grant planning permission unless '*specific policies in this Framework indicate development should be restricted*'. Footnote 9 gives examples of such policies but these are examples rather than a complete list. Assessment of the application should therefore refer to any relevant restrictive policy in the NPPF in this instance paragraph 74, which states that existing open space should not be built on unless certain criteria are met. This is a specific policy of the NPPF which indicates that development should be restricted. Consequently an assessment is needed regarding the appropriateness of the scheme, both for on-site pitch provision and in respect of the replacement pitches proposed by the applicant, to satisfy the most relevant second element of paragraph 74 which states that '*the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*'. The applicant has sought to demonstrate that appropriate pitch replacement will occur in terms of quantity and quality, as outlined in the Committee report. Legal advice has clarified that the question of '*suitable location*' needs to have regard to the approach in terms of the Open Space SPD, which looks at pitch provision as a City-wide resource as well as considering the localised role of these particular pitches. The existing pitches fulfil a local function for the adult and youth teams

of the Countess Wear Dynamos and whilst matches and training could potentially take place elsewhere in the City this would be less convenient and less accessible than the continued use by the existing teams of the current facility. Whilst a qualitatively better facility is proposed to be provided at the Exwick Hub (and one full sized pitch is being retained at the site) there is a net loss of recreational open space in quantity within Countess Wear area and the replacement facilities are not as conveniently located for local users. However the Countess Wear Dynamos which currently use the site have stated that they are supportive of the proposed provision. Notwithstanding the localised pitch 'loss' it is the College's intention to provide a retained pitch on the Wear Barton site and replace the 'lost' Wear Barton Road pitch at the Flowerpot playing field thereby provide a quantitatively equivalent citywide playing pitch provision. Whilst it is accepted for the Countess Wear area this would represent a loss of an existing playing field it is acknowledged that the criteria contained within the Open Space SPD, the Playing Pitch Audit and the legal interpretation of 'suitable location' as defined in paragraph 74 of the NPPF would give more weight to citywide rather than local provision. That said, the local role of the site and its convenience to local residents/players should not be disregarded. Whilst the loss of this local pitch provision would be regrettable it is recognised that the current arrangement with the Countess War Dynamos is solely at the discretion of the applicant and this area could be fenced off to restrict access at any time. It is understood that the College intend to implement their planning consent for the perimeter security fencing before the end of the year. Consequently it would be difficult to dispute that the application overall package, which now explicitly includes the replacement pitch at Flowerpot playing fields within the planning application does not meet the criteria as set out in NPPF paragraph 74 in terms of the current recreational role of the site. There is however an amenity role that also needs to be considered (which is not dependent on physical access) as well as the future potential of the site to meet other recreational needs if the College were to dispose of the site or otherwise make it available.

Planning Pitch Audit

The NPPF, Local Plan and Sport England make reference to the need for an assessment of the supply and demand for playing pitches both in terms of quantity and quality. The Council has undertaken to address this issue through the preparation of an Audit and Playing Pitch Strategy. This Audit provides the necessary evidence base when considering a proposal which would result in the loss of playing pitch provision. An initial Audit has been completed and its findings are currently being assessed by the various sports bodies including Sport England. The Audit concludes that the application proposal does provide an equivalent pitch provision for the existing pitches and therefore this represents a material consideration. The initial findings of the report indicate that in respect of football pitches there are sufficient adult pitches within the city to meet current and forecast demand but a shortfall of 6 youth pitches (3No. 11x11 and 3No. 9x9) and it is accepted that the existing use of the site for playing pitches could help address this shortfall. The Audit identified the site as a possible pitch for cricket use, which has a shortfall of one pitch throughout the city although it does recognise that the site was last used for cricket 25 years ago. However it is considered from the Audit's conclusions that the City shortfall in playing pitches is not severe and is not dependent on the retention, in its current form, of the Wear Barton site (although it would have potential to help address the shortfall). It will be for the Playing Pitch Strategy to set out what measures are needed to address the identified playing pitch shortfalls. The scenarios outlined within the Audit highlight measures which are not reliant on private landowners (as is the case at the Wear Barton site) and include making more efficient use of existing playing pitches; bringing disused sites back into playing fields (eg Bromhams Farm and Grace Road); the greater use of artificial grass pitches (AGP) and providing additional sites particularly by the use of educational establishments. It is important to acknowledge that approval of the planning application will ensure, within the legal agreement, an improvement in pitch quality, changing room and associated equipment for community usage at the Wear Barton site and off-site, create funding for a new AGP at Exwick and a reinstated pitch at Flowerpot, all acknowledged within the Audit as ways of addressing playing pitch shortfalls. Consequently in respect of this planning application it is considered that the findings of the Audit do not provide a strong evidential basis against which this scheme can be refused.

Visual Impact and future demand for playing pitches

The assessment of NPPF recreational policy and the findings of the Playing Pitch Audit are important considerations and as the proceeding section sets out point towards an acceptance of the scheme. However this needs to be assessed against the loss of open space both in visual impact when assessed against Local Plan Policy L3 and in terms of the loss of this resource and its potential to provide playing pitches in the future. It is inevitable that the loss of two thirds of the site to the built development will have a detrimental visual impact. There will be a loss of visual amenity in the local area as a result of the significant reduction in openness and greenspace, which will be particularly apparent from Wear Barton Road, from the public footpath which runs along the southern boundary, and from views experienced by informal recreational users of the site itself. There is no effective mitigation of this loss, even accepting that the development itself will be well-designed. In addition the loss of the site to housing would negate the future potential of the site for playing pitch provision given the capacity of the site to accommodate a greater number of pitches than are currently marked out. The existing pitches have a continuing value in meeting recreational needs, including both their existing use and their potential to provide additional pitches within the available space should the demand arise in the future. Indeed the Playing Pitch Audit does recognise the need for additional youth football pitch provision which could be accommodated within this site. However this could only be realised if the College were willing to release the land in the future and therefore cannot be guaranteed. It is therefore difficult to conclude that this loss of future potential alone represent a strong reason to resist the proposed development.

Sport England's Objection

Sport England has maintained their objection to the scheme and highlighted particularly areas of concerns, other than the conflict with the Development Plan and the NPPF paragraph 74 which have already been stated. Their objection is reproduced in full (excluding photographs) within the consultation section of this report. In summary, Sport England does not consider that the applicant has met any of the exception tests contained within their Playing Field Strategy which are reproduced in the planning policies/policy guidance section of this report. The proposed playing field land to be retained will be physically constrained and will only be capable of accommodating one football pitch, which is currently shown to be below the recommended size for football. Sport England have also raised concern over proximity to the proposed housing and the potential for overplaying given the scheme proposes a single pitch site and consequently issues its regarding long term viability. The illustrative layout has subsequently been revised to show a full size playing pitch and therefore addresses one of the issue identified by Sport England. However it is accepted that the close proximity of the pitch to new dwellings as indicated on the illustrative layout could lead to a detrimental impact on residential amenity. In addition, no details have been provided of the improved quality of the remaining playing pitch as stated by the applicant and therefore concerns are shared with Sport England about the future viability of the only one pitch at this site. Consequently if approval was granted further details of the enhancement to the replacement pitch would be required.

Sustainable Location

It is accepted that the site is located within a sustainable location. It is close to good transport routes, local schools and amenities, which have the potential to be enhanced through the combination of planning conditions, Section 106 agreement requirements or improvements arising from CIL receipts, if this application was to be approved. The site can therefore be regarded as a sustainable urban extension in terms of its location. The application proposes a similar number of dwellings to the Exeter Road application (up to 101 units at Wear Barton Road and 107 units at the Topsham appeal). The Inquiry inspector commented that the number of units proposed for the Exeter Road '*... would be of very considerable important in delivering housing in the context of the serious housing shortfall...*' Accordingly given the similarity in terms of number of homes proposed for the Wear Barton Road site the development is considered significant to address the identified housing supply deficit.

Accordingly this represents a material planning consideration within the overall assessment of this application.

Highway Issues

The County's Highway Officer has stated that although the additional traffic from an unallocated site through Countess Wear Roundabout is undesirable, it is situated in an existing urban area that is served by public transport and within walking and cycling distance of schools and shops and therefore, from a transport perspective, is a sustainable site. The Highway Officer comments that the development proposes a number of enhancements to the local sustainable transport provision, its impact is not considered severe, safe and suitable access is provided and therefore the development could not be refused on transport grounds. Consequently subject to appropriate conditions regarding improvement towards the junction on Topsham Road and a dedicated pedestrian/cycle access through the site and financial contributions in respect of Traffic Regulation Orders, the recommendation is no objection.

Affordable Housing

The Council's Housing Development Officer has assessed the proposal and subject to the provision of 35% affordable housing of an appropriate representative mix secured through an appropriate legal agreement this application is considered appropriate.

Land Ownership

The applicants have stated that the current playing field is not public land but privately owned. However this is not relevant to the planning assessment of the application. Although the NPPF makes no distinction between public and private land, the Local Plan makes it clear that it seeks to '*...encourage greater community access to playing fields currently under private or education ownerships...*' It is acknowledged that the College have planning permission to fence off the site and could terminate the current arrangement with the Countess Wear Dynamos to use the facilities, resulting in no sport being played on the site. Whilst this would be unfortunate the management arrangements for this site are beyond the control of the Council and the lawful use of the land would still remain as a playing fields, as there is no alternative planning use of the site.

Potential call in

If the Council is minded to grant consent legal advice will be needed to clarify the scope of the Consultation Direction and the potential for the application being 'called in' by the Secretary of State. The requirement to refer the application to the Secretary of State relies on a set of criteria which are defined within planning legislation which only applies if; the site is owned by a local authority; is used by the College as a playing field and has been used by the College at any time in the last five years. The Wear Barton site does not appear to fulfil any of these criteria and consequently the Council would unlikely to be required to consult the Secretary of State prior to granting planning permission.

Conclusion

It is considered that the final decision on this application is finely balanced. Whilst the additional information submitted by the applicants is helpful it does not in itself provide sufficient justification to approve the scheme which remains similar in form to the development previously assessed and subject of the planning inquiry scheduled for December 2016. However the production of the Playing Pitch Audit is significant. The Audit states that the scheme, which now contains the replacement pitch at Flowerpot Playing Field, would provide an equivalent level of playing pitch provision and its overall conclusion indicates only a small shortfall in football pitch provision throughout the city and this is solely in terms of youth provision.

Nevertheless the application still needs to be assessed against the impact the development will have in terms of loss of recreational facilities and in amenity terms on the character of the

area against the requirements of Local Plan Policy L3. Clearly the development of two thirds of the site will undoubtedly have an impact on the currently spacious and green open area as seen from Wear Barton Road and in particular when viewed from alongside the public footpath to the south of the site. In addition, the scheme would be in conflict with Policy L5 which seeks to maintain the recreational opportunity in the area. The loss of the majority of the site to residential development will certainly restrict the ability of the site to provide additional playing pitches.

The counter argument is that the application will provide a significant number of housing in a sustainable location, the provision of 35% affordable housing, the creation of an onsite playing pitch/changing facilities, reinstatement of a pitch at Flowerpots and funding of the new 3G pitch at Exwick, as outlined in the Committee report. Although it is acknowledged that the balancing of these competing priorities should be carried out having regard to the Development Plan and other material considerations. The presumption in favour of sustainable development does not operate in this case to tilt the balance because of the conflict with paragraph 74 of the NPPF, which is a specific policy restricting development involving the loss of open space.

Consequently the decision is finely balanced requiring the weighting of the loss of two thirds of the site to development and its impact on both visual and recreational amenity and potential to meet future playing pitch demand against the positive benefits through the delivery of a significant number of dwellings to meet the Council's five year housing supply deficit. It is considered that the overall application package submitted by the applicant fulfils the criteria of NPPF paragraph 74 in relation to the recreational role of the site as confined by the Planning Pitch Audit and accordingly the restrictive policy to the development of this site has been met to that extent. The loss of open space as a visual and amenity resource is not, however, mitigated and still conflicts with both national and local policy. Whilst the loss of local open space is regrettable its long term future in its current form cannot be guaranteed and given the recent appeal decisions allowed at Home Farm and Exeter Road, Topsham it is considered that the positive benefits provided by the application should not be underestimated as a compelling argument when presented at appeal. Accordingly on balance it is considered that the application should be approved

Members should be aware that the applicant has submitted an appeal to the Planning Inspectorate against non-determination of the planning application (15/0878/01) given the local authority's failure to determine the application within the target 13 weeks. The public inquiry is scheduled to commence on 6 December. The applicants have indicated that they would withdraw this appeal if planning permission were granted, although given times scales in submitting statements prior to the Inquiry it is still likely that it will proceed.

RECOMMENDATION

Subject to the completion of a Section 106 Agreement to secure affordable housing; highway works; a financial contribution towards a Traffic Regulations Order and Travel Planning; an equipment children's playing area; reinstatement of a full size playing pitch at Flowerpot Playing Fields to include community use, marked out pitches with the Wear Barton Road site and provision of associated football equipment in connection with the marked out playing pitches **APPROVE** the application subject to the following conditions:-

- 1) Approval of the details of the layout, scale, appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
Reason: To ensure compliance with section 91 - 93 of the Town and Country

Planning Act 1990.

- 3) The development hereby permitted shall begin not later than 2 year from the date of approval of the last of the reserved matters to be approved.
Reason: To ensure compliance with sections 91-92 of the Town and Country Planning Act 1990.
- 4) In respect of those matters not reserved for later approval the development hereby permitted shall be carried out in accordance with the proposed access scheme shown on drawing no. SK010C
Reason: To ensure that the means of access to the site are acceptable.
- 5) Construction work shall not take place outside the following times: 0800hrs to 1800hrs (Monday to Fridays); 0800hrs to 1300hrs (Saturdays); nor at any time on Sundays, Bank or Public Holidays.
Reason: In the interests of the amenity of occupants of nearby buildings.
- 6) A Construction Environmental Management Plans (CEMP) shall be submitted to and agreed in writing by the local planning authority prior to the commencement of development on site and work during the construction period shall be carried out in accordance with the approved details. This shall include details of mitigation measures to control the environmental impact of construction phases, including site traffic, vibration, noise and dust, as well as details of monitoring, complaints handling and arrangements to meet regularly with the local authority.
Reason: In the interest of the environment of the site and surrounding areas.
- 7) 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 details of compliance provided to the local authority.
Reason: In the interests of the amenity of the occupants of the buildings hereby approved.
- 8) Before development is commenced, a noise assessment together with details of any necessary mitigation measures to protect future occupiers of the development against identified inappropriate levels of externally generated noise shall be submitted to and approved by the local planning authority and any mitigation measures so approved shall be implemented within the relevant part of the development before it is occupied.
Reason: In the interests of the residential amenity of the future occupants of the development
- 9) No work in connection with the development 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 and the work shall be carried out in accordance with the approved scheme.
Reason: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.
- 10) Prior to the occupation of the development a biodiversity management and enhancement programme for the site shall be submitted to and approved by the local planning authority and the programme shall be implemented and maintained thereafter in accordance with the approved details.
Reason: In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

- 11) The development shall not be carried out otherwise than in accordance with a surface water drainage scheme, which shall include details of the means of attenuation and disposal of surface from the site, including through the use of sustainable drainage systems. Details of the scheme, a timetable for its implementation and details of its future management shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme shall be implemented in accordance with the approved details and timetable for implementation.
Reason: To ensure the satisfactory drainage of the development.
- 12) No part of the development shall be occupied until the proposed raised table access, footways and cycle route, as indicated on Wear Barton Road Access Drawing SK01C, has been provided in accordance with details to be submitted to and agreed in writing by the Local Planning Authority and retained for those purposes at all times.
Reason: To ensure that a safe and suitable access to the site is provided for all users, in accordance with Paragraph 32 of the National Planning Policy Framework.
- 13) No more than 25% of the development hereby approved shall be occupied until the pedestrian crossing enhancements at the Wear Barton Road/ Topsham Road/ Admiral Way signalised junction, as indicated on the proposed pedestrian/cycle signalisation plan Drawing SK03B, or other arrangements as agreed in writing by the Local Planning Authority have been provided and maintained for this purpose at all times.
Reason: To provide safe and suitable pedestrian and cycle access to and from the site to local amenities, in accordance with Section 4 of the NPPF.
- 14) No more than 50% of the development hereby approved shall be occupied until a dedicated pedestrian cycle route from the Wear Barton Road access, through the development to a connection in the south west corner of the site to Glasshouse Lane, as indicated on Drawing SK04B, have been provided to a standard agreed in writing by the Local Planning Authority and maintained for this purpose at all times.
Reason: To provide safe and suitable access and adequate facilities to promote the use of sustainable modes, in accordance with Section 4 of the NPPF.
- 15) Before commencement of development the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.
Reason: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

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

NOTES

□ Application boundary



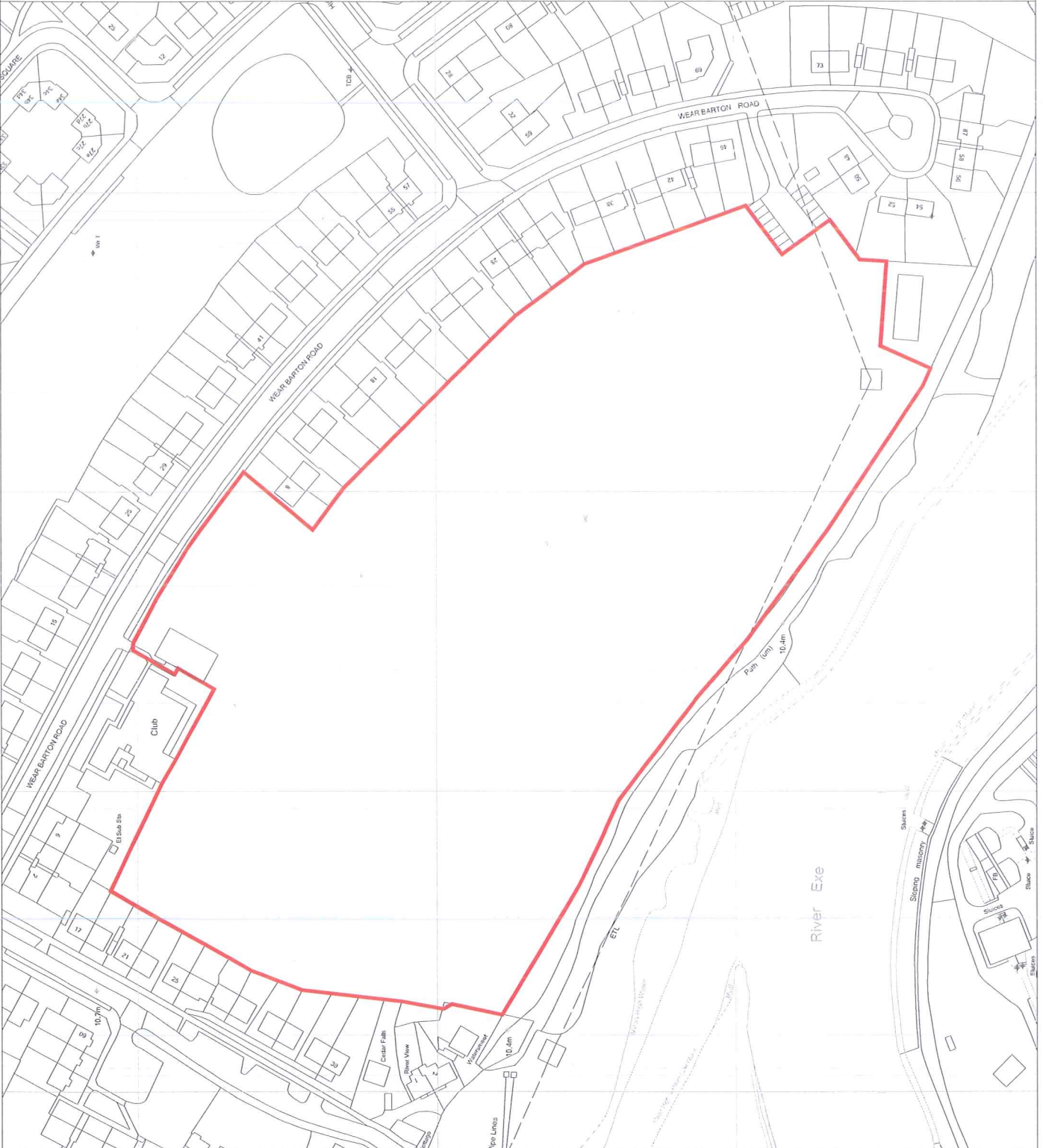
REV	NOTES	DATE
	Wear Barton Road, Exeter Location Plan	DC / GB
140501 L 01 01	1:1250 @ A3	March 2015

CliftonEmerydesign

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DRAWING STATUS: PLANNING

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16/08/15

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Response to Sport England objection

1. In an email dated 19 August 2016, Sport England maintained its objection to the application. Whilst the objection makes reference to a number of issues, the essence of the objection is an unwillingness by Sport England to positively engage with the application until a Playing Pitch Strategy has been adopted by the Council.
2. The College's position is that Sport England is wrong to object to the application, for many reasons. This Response sets out those reasons in more detail.
3. It is important to keep in mind the factual position. The land is privately owned by the College. The College has not used the land for educational purposes since [2010]. The only formal use of the land for sport is by the Dynamos, a football club. The Dynamos have used the land since the mid-1970s. The arrangement with the Dynamos is an annually renewed external hire agreement which has been in place for over 10 years. In the 2015/2106 season, the Dynamos ran two teams and marked out two pitches. [N.B. The Dynamos have now confirmed that the club could successfully operate using a single full sized playing surface which they could sub-divide to create 9 v 9, 5 v 5 etc. pitches.
4. The existing changing facilities comprise four, sub-standard, changing rooms. The existing pitches are classified by Sport England as "standard", i.e. less than "good" classification. During the past five years the College has not been approached by any club, football or otherwise, enquiring about the land's availability for sport. The College obtained planning permission to fence the land in March 2014 under reference 14/0283/03. The land has been maintained by the College. The land is surplus to the College's own requirements.
5. The College's position is that, if necessary, it will fence the land prior to the expiry of the above planning permission, although it will make sure that it maintains the existing arrangement with the Dynamos. The College is not yet faced with making that decision. However, the Council will be aware that the number of teams in Exeter playing football is diminishing - not as the result of a lack of grass playing pitches -and that the cost of maintaining playing pitches and facilities is increasing. It will not be economic for the College to continue to keep the fields open to public use, and it will not.

6. The College would emphasise, therefore, that the continued use of the land at Wear Barton for sport is not guaranteed: the fields are private land, and every person using the land without authority to do so is committing a trespass. Unless planning permission is granted there is every chance that the land will soon no longer be available on an ad-hoc basis for either formal or informal sport and recreation use. This fact is a material consideration and must be weighed by the Council when determining whether to grant planning permission.
7. If permission is granted, however, the provision of formal and informal recreation and sporting facilities on land at Wear Barton, for use by the public, would be secured.
8. The development itself would deliver the following recreational benefits:
 - a. a replacement, full-sized football pitch, with a "good quality" specification (ie above a score of 80, as per Sport England's specification rating), measuring 106m x 69m including run off / safety area around the pitch (which fully answers Sport England's concerns about the size of the replacement pitch)
 - b. new changing facilities
 - c. a playground for younger children
 - d. two new marked-out, 5-a-side pitches (including equipment) (currently, there are none)
 - e. a new junior pitch (including equipment) at Flowerpot Lane
 - f. a new adult pitch (including equipment) at Flowerpot Lane

and all of the above being available for public use.

9. The pre and post development positions are significantly different. In the pre development position, the existing pitches on the site are in average condition, barely used, and on private land. In the post development position, there will be the same number of adult pitches (two), and a maintained number of junior and 5-a-side pitches. All the pitches will be built to a "good standard", all will be available to the public, and all will be controlled by a combination of s106 obligations and planning conditions.
10. The high specification of the new provision will ensure better drainage and, as a result, the new pitches will be capable of being used more often than other pitches in Exeter. The College is very experienced at managing and maintaining pitches and will manage and maintain the playing surface at Wear Barton. The College will provide the goals,

including goals for 5-a-side and junior football, and will make the playing surfaces available for community use. Indeed, it should be noted that the Dynamos are fully supportive of the proposals for an improved playing surface and new changing facilities at Wear Barton. Furthermore, the College will be making temporary arrangements for the Dynamos during the construction phase.

11. The new changing facility will be of a higher standard than the existing facility. It will comprise two separate changing rooms, a separate referee's room, storage room, showers and toilets. The Dynamos have been involved in design discussions to ensure that it will be fit for purpose. It will also be DDA compliant. The existing changing rooms are not.
12. The College sees no merit in Sport England's argument that the College's commitment to the provision at Exwick is irrelevant because the land at Exwick could already provide playing pitches. The Sport England argument ignores the fact that these pitches are not currently marked out, maintained or equipped. The significant enhancement proposed for Exwick would be additional provision of better quality than currently exists. It will be under the direct management of the College, who are vastly experienced at managing similar facilities, and there will be the control and flexibility to ensure that these extra pitches are provided to maximise their use.
13. Further, the College has also secured a resolution for planning permission for a 3G pitch at Exwick. The proposed sale of the Wear Barton site will provide a significant part of the money necessary to fund the delivery of the 3G. If the money from the sale of Wear Barton is not available, and if the 3G is to go ahead, the College will need to defer other important schemes, which would be detrimental to the College, its students and the wider economy of Exeter. The strategy employed by the College is aligned to the funding constraints facing the further education sector, with guidance encouraging efficiency across curriculum delivery and disposal of assets which are surplus to educational need.
14. With regard to the specifics of the Sport England objection, the College would ask the Council to consider the following responses:
 - a. Sport England asserts that the playing field is recognised as an important playing field for numerous sporting and recreational activities, and that it is used for informal recreation. This assertion is not borne out by any facts or evidence. In

fact, the evidence shows the opposite, namely, that the land is hardly ever used for informal recreation and, other than the Dynamos, there is no demand for formal recreational use at Wear Barton.

- b. It is a material factor that whilst the lawful planning use is currently as playing fields, the weight which can be given to that use is limited by the fact that the fields are privately owned and could be fenced in shortly. The extent to which a use can actually perform its function, notwithstanding the lawfulness of that use, is relevant to the assessment of that land's planning characteristics.
- c. Sport England acknowledges that there is a link between the College's proposals at Exwick and at Wear Barton. However Sport England incorrectly states that the Council "should not give any weight to this in their planning decision." With respect, it is for the decision-maker to decide what weight to give to this fact and the Council is allowed to take into account the College's wider proposals.
- d. Sport England acknowledges that parts of the Wear Barton site have not been marked out for formal pitches for a few years. However, Sport England believes there is "potential" for pitches to be laid out. In response, the College can confirm that ever since the College's use of the site effectively ceased, the College has not been approached by any club wishing to use any unused part of the site. The facts show that there is no demand for these fields in their current form.
- e. Sport England suggests that the adult football pitch will not meet the recommended size. This is wrong. The College would accept the imposition of a planning condition that required the provision of an adult pitch 106m x 69m (including safety run off), and a pitch of that size could be provided on the site.
- f. The College does not accept Sport England's assertion that the pitch will not allow for rest and rotation. The new pitch will be laid out to Sport England's own "good standard" specification. Indeed, the new pitch will be less affected by bad weather than the other grass pitches in Exeter and will be provided and maintained to a high standard. Any concerns Sport England might have about the standard of the new pitch, or the proposed changing facilities will be addressed by suitable planning conditions and obligations.
- g. Sport England implies that the College's off-site mitigation at Exwick may adversely affect the Ultimate Frisbee pitch. It will not. The College has no proposals to terminate or otherwise affect the use of this pitch. In fact, the College has already met the Ultimate Frisbee club to discuss how the pitch can be improved and allowing access to changing facilities for players.
- h. Sport England refers to a planning appeal decision (Ref: APP/U/4610/A/12/2176169). The first point to note about this appeal is that it was

allowed. The appeal decision merely emphasises that for a proposal to comply with paragraph 74 of the NPPF, it is necessary for an applicant to offer replacement provision that is equivalent or better in terms of quantity and quality in a suitable location. The College acknowledges this requirement and contends, rightly, that the proposed re-provision, both on and off-site (as described above), will result in replacement by equivalent or better provision in terms of quantity and quality. This is a matter of fact, not planning judgment.

- i. Sport England refers to work on the draft Exeter Playing Pitch Strategy. However, its comments in relation to Wear Barton are incorrect and out of date. What this does confirm, however, is that there is an opportunity to provide a better playing surface than currently exists.
 - j. Sport England comment that the College's proposals will "impact" on the Dynamos' "ability to grow". The Dynamos do not share this opinion. To reiterate, the Dynamos positively support the proposals and welcome the improved playing surface, which they have confirmed will meet the Club's needs, and the security the proposal will deliver.
 - k. Sport England refers to cricket. In response, the College would reiterate that it has never been approached by any cricket club wishing to use Wear Barton. Further, the College would point out that it has made provision at Exwick for cricket provision. (Issues at Winslade, East Devon, will be for that landowner to address.)
15. In conclusion, the application is about better provision, more provision, public access and long-term benefits for Exeter's public recreation offer.
16. Sport England's objections are wrong as a matter of fact and, if applied, would directly lead to a loss of playing pitch provision. This is not the first time that Sport England has objected to developments of this type, nor will it be the last. However, as demonstrated by the two decisions made by Taunton Deane Borough Council (attached), or the one made on appeal referred to in paragraph 15(h) above, an objection from Sport England is not determinative, nor should it be treated as such. As confirmed by David Elvin QC, the Sport England objection is only one material consideration, and must be weighed against the other benefits that would flow from the development.
17. These benefits, put simply, will be an enhanced and secured recreational provision that can, and will, be delivered by a public sector body with a long record of providing and managing sport for the people of Exeter.

Mr Paul Jeffrey
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 Exeter
 Devon
 EX1 1JN

Hele Road
 Exeter EX4 4JS
 Tel: 01392 400500
 Fax: 01392 400842
 www.exe-coll.ac.uk

Principal: John Laramy

13th September 2016

Dear Mr Jeffrey


Planning Application Ref: 16/0849/01 – Playing Field Off Wear Barton Road, Exeter

Please find enclosed four further documents to support the application at Wear Barton as per the reference above. These can be summarised as follows:-

1. Booking Schedule / Demand Analysis – These set out all formal requests to the College (either direct or through the Countess Wear Dynamos) for the last and the current playing season. This includes any requests for both pitch utilisation and general requests to use any part of the field
2. Informal use – a photographic database of daily utilisation during August and early September 2016 (prior to any of the current fencing off for SWW sewer upgrades). This time period was selected as one of the periods where informal utilisation would be at a maximum based on children being off school for the summer holidays. The photographic database sets out minimal usage during this period, with photographs being taken twice daily at potential peak utilisation timings.
3. Sport England objection – a detailed response (with associated documents) to each of the points set out in the recent Sport England response. These set out the mitigations offered in respect of each point which should be seen as part of the overall sports investment and strategy that the college is offering across the city.
4. A draft s106 agreement relating to the proposed development

Exeter College and its representatives remain available for further dialogue with Sport England, either direct or via yourselves prior to consideration at Planning Committee. We would also request that the three minute slot is allocated to our Principal, Mr John Laramy to speak in support of the application at the Committee meeting.

Yours faithfully



Steve Campion
 Vice Principal - Finance and Business Operations



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**ACTUAL WEAR BARTON FIELD
BOOKINGS SCHEDULE 2015/2016**

Booking		Reason	Frequency	Duration (Hours)	Total (Hours Utilised)
FOOTBALL	CW Dynamos	Training	Weekly (x 45)	2	90
	CW Dynamos	Fixtures	Weekly (x 11)	6	66
	CW Dynamos	Summer Tournament	Annual (1 Day)	8	8
					Sub Total
OTHER FOOTBALL	No requests made			0	0
					Sub Total
OTHER	Devon CC	Fun Day	Annual (1 Day)	8	8
	Local Residents	Party	2 days	4	8
					Sub Total
COLLEGE	No requests made			0	0
					Sub Total

TOTAL	180
Capacity (assumes 8 hours/day)	5840
Utilisation	3%

**PROJECTED WEAR BARTON FIELD
BOOKINGS SCHEDULE 2016/2017**

Booking		Reason	Frequency	Duration (Hours)	Total (Hours Utilised)
FOOTBALL	CW Junior Dynamos	Pre Season Training	Weekly (x 13)	3	39
	CW Senior Dynamos	Pre Season Training	Weekly (x 13)	4	52
	CW Junior Dynamos	Fixtures	Weekly (x 14)	4	56
	CW Senior Dynamos	Fixtures	Weekly (x 26)	4	104
					Sub Total
OTHER FOOTBALL	No requests made			0	0
					Sub Total
OTHER	Community Group	Fun Day	Annual (1 Off)	8	8
					Sub Total
COLLEGE	No requests made			0	0
					Sub Total

TOTAL	259
Capacity (assumes 8 hours/day)	5840
Utilisation	4%

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Agenda Item 6

ITEM NO. 6

COMMITTEE DATE: 31 OCTOBER 2016

APPLICATION NO: 16/0963/03 FULL PLANNING PERMISSION
APPLICANT: Mr Lovell
Heritage Developments (SW) Ltd
PROPOSAL: Erection of a B1 Office Building, access and associated infrastructure works
LOCATION: Land bounded by Exeter Road and The Retreat Drive (Heritage Homes Office), Exeter Road, Topsham, Exeter, EX3
REGISTRATION DATE: 29/07/2016
EXPIRY DATE: 23/09/2016

UPDATE SINCE 3 OCTOBER 2016 COMMITTEE MEETING

At the Planning Committee held on 3 October 2016 it was resolved that the application be deferred for the proposal to be considered by the Devon Design Review Panel. The proposal will be presented at the Devon Design Review Panel on 20 October 2016. Comments from the DDRP will be circulated on the Update Sheet and will be presented to Members at the 31 October 2016 Committee Meeting.

HISTORY OF SITE

None.

DESCRIPTION OF SITE/PROPOSAL

The application site lies on the southern side of Exeter Road and immediately adjacent to the east side of the M5 motorway bridge and embankment on the corner of Exeter Road and The Retreat Drive.

To the east, along Exeter Road, is the site where new houses have recently been approved for Heritage Homes, followed by a continuous frontage of housing accessed off a separate service road. To the west, on the opposite side of the M5 motorway embankment and facing the Topsham Football Club lies the site where a retail store is under construction and a further new housing development (Seabrook Orchards). The site is flat, with open frontages to the Exeter Road and The Retreat Drive, but contained on the southern boundary where there is an existing boatyard, by a row of mature trees.

The proposal is for a new office building (Class B1) to be the headquarter office for Heritage Homes. The site would be accessed from Exeter Road with the building set back within the site, adjacent to the M5 embankment and the front curved elevation facing Exeter Road and The Retreat Drive.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

A Planning, Design & Access Statement has been submitted in support of the application. Additional information was submitted in support of the application:

- The principle of employment development in a residential area - the NPPF sets out the Government's commitment to securing economic growth in order to create jobs and prosperity. It has long been recognised that office and residential uses are compatible and reinforced through NPPF paragraph 21 which urges LPAs to facilitate the integration of residential and commercial uses even within the same unit. Saved Policy E5 of the Exeter Local Plan First Review also recognises the compatibility of business use in residential areas subject to detailed criteria including there being no adverse impacts on local roads, the loss of existing off-street parking and will not significantly increase on-street parking. The proposed access has the support of the local Highway Authority, will not generate a significant amount of traffic and there is no need for any on-street parking. The proposal for additional office space within the site, combined with the fact this is a

bespoke office development for a local firm to remain within the city, will support the Core Strategy objectives of reducing inward commuting and enhancing the range of office space available.

- Sustainable location for offices - The site lies within the urban area of Exeter, along a bus route, the national cycle route and pedestrian routes and is therefore a sustainable location.
- Suitable use as offices - The site is currently unused and has in the past attracted fly tipping. The site is difficult to develop in that it is a small site and it is bounded to the east by the motorway embankment. Immediately adjoining the site is another commercial business where the existing Retreat Boatyard has many commercial vehicles coming and going. The use of the site for offices will cause minimal noise or disturbance to nearby residences. The building has been designed to be a high quality iconic building which matches the residential buildings approved opposite.
- Topsham Gap - This area does not demonstrate any strong landscape features which would otherwise contribute towards a gap between Exeter and Topsham and it has been accepted as compromised by the presence of the motorway bridge.
- Traffic & Parking Impact - The full number of parking spaces required can be provided on site, there will be no impact to The Retreat Drive as access is from Exeter Road.
- Loss of Amenity - There will be no loss of amenity as the residential and office schemes been carefully designed to ensure that there will be no overlooking or loss of privacy within the internal or external environments.
- Employment Provision - The existing 15 employees will be transferred to the new office from the current HQ at Matford Business Park. A further 10-12 new jobs will be created directly as a result of the proposed office development. If it is not possible to relocate the HQ building, these jobs will be lost in the City as the company will move to cheaper, more fit for purpose offices outside of Exeter.

REPRESENTATIONS

77 letters of objection have been received concerned with the following points:

- The land should be used as a recreation area, planted with trees to soften the hard edge of the motorway and reduce road noise;
- The application should be delayed until the new residences have been occupied;
- Takes no account of the road capacity or layout;
- Increased volume of traffic on a dangerous junction with poor visibility and where there has already been a fatality;
- No accommodation for cyclists or pedestrians;
- Inappropriate development and use for Topsham;
- Will set a precedent for other industrial uses;
- Additional traffic where children play in the street;
- Parking and traffic issues, particularly on The Retreat Drive and at the junction;
- Site is part of Topsham Gap, backed up by recent appeal decision. The site, whilst small, has strategic significance if further erosion of policy and the Gap on other adjacent sites, is to be avoided;
- Should be returned to green space for enjoyment by residents once the site office is cleared;
- The design of the building is inappropriate for Topsham and out of character with the local surroundings and would be an eyesore;
- The building is too high for this location beside the motorway. ECC have established parameters for this location and should not erode these further, compounding the harm caused by the current approvals. It will stand 4m above the M5 bridge deck and is clearly in breach of ECC's previous height parameters for the area;
- The height reinforces the canyon effect of the new development;
- The massing and styling of the building occupies a large proportion of the site and is of a single, unarticulated volume, in conflict with the much finer grain/scale of surrounding existing and recently approved residential buildings;

- Topsham is being developed by stealth and applications viewed in isolation;
- This land should be for affordable housing units;
- The recent appeal decision succeeded because ECC failed to earmark sufficient provision for house building and thus existing planning provisions seeking to preserve the Topsham Gap were overruled;
- This is the last bit of the Topsham Gap on the south side of Exeter Road and should be preserved as such;
- Allowing Aldi does not mean that a business park should be started on this main road;
- Topsham is primarily residential and not a business park;
- Increased vehicular traffic on a dangerous junction;
- There is no need for new offices in this location when there are business parks in Exeter;

The Topsham Society:

This site is part of the general area known as the Topsham Gap and was protected by LS1 Landscape setting designation until ECC removed lands south of Exeter Road following the Exeter Core Strategy Public Inquiry.

The Society has previously made representations in respect of the Gap, including evidence at the Exeter Core Strategy Public Inquiry, the outline application stage of the adjoining Exeter Road and Wessex Close housing site applications and giving evidence in support of ECC stance to defend the Gap at the Waddeton Park/land adjacent Topsham Rugby Club Public Inquiry. The Society's position is that the Gap is of vital importance to prevent the coalescence of the town with greater Exeter. Whilst we note that ECC's position is that the Gap is now only designated for lands North of Exeter Road, we believe, and note that this view was supported by the Waddeton Public Inquiry Inspector, that the south lands made a critical contribution to the visual separation of the settlements and that the approval of the south Exeter Road site had weakened ECC's Landscape Setting policy position. Therefore this application site, whilst small, still has strategic significance if further erosion of policy and the Gap, is to be avoided.

It is noted that the application site was put forward as open-recreation space by the applicant during the south Exeter Road outline application and was subject to a special public consultation on open space provision. At the time, the Society/residents made it clear that open space provision should be on or close to site. Ultimately during the Wessex Close detailed application, ECC accepted a S106 contribution and limited on-site residual space as sufficient. The Society held at the time that this was misguided and the current application underscores that view.

Scale - The residential approvals for the south Gap lands (Exeter Road and Wessex Close) permitted 3 storey flat elements. Objections were raised that given that the site was on a small town fringe adjoining largely detached 2 storey ribbon development, that the introduction of 3 storey flats was wholly alien and would create a canyon effect along the currently rural Retreat Drive. Officer justification for recommending approval of this element was that it would be below/in scale with the M5 bridge deck and would be edged by motorway landscape. The Society believe that this was flawed planning, but that if nothing else, ECC have established visual-design parameters for this location and should not erode these further, compounding the harm caused by the current approvals.

The proposal is for a building of significantly greater scale than the current flats (3 substantially higher commercial storeys + rooftop accommodation) which will stand 4m above the M5 bridge deck and therefore is in breach of ECC's previous height parameters. Furthermore, by placing development hard against the western edge of Retreat Drive it will remove the mitigating effect of the M5 landscape, significantly reinforcing the canyon effect previously highlighted. As a consequence the proposal is wholly inappropriate to both immediate locality and the edge of the town location.

The height issues noted above are reinforced by the massing and styling of the building which, as can be seen from 3D visuals of the proposals, occupies a large proportion of the site and is of a single unarticulated volume, in conflict with the much finer grain/scale of surrounding existing and recently approved residential buildings. Its styling, whilst perfectly acceptable for one of the city's business parks, is wholly inappropriate for this small town fringe surrounded by residential buildings.

Access – It is assumed due to legal constraints (reported to ECC by residents during the adjoining housing applications) it is proposed that a new separate access is provided from the site to Exeter Road. This will be both close to the existing Retreat Drive access, the M5 bridge and the new Aldi store entrance. Irrespective of DCC Highways indication of no objection, Exeter Road in this vicinity is known to be dangerous, having been the site of a fatal road accident in recent years, and the formation of a further access point serving a significant traffic generator would appear misconceived.

Use – The driving force for the removal of Landscape Setting designation for south Gap lands and the Waddeton approval was housing need and ECC's failure to provide sufficient housing to meet the NPPF 5 year allocation requirement. Whilst the site can be argued to border commercial uses at Retreat Boatyard and Aldi, these are local uses necessitated by location (river and where people live). This is markedly different from the proposed office HQ use. Such an "anywhere" use is alien to this small town fringe.

Having maintained a detailed involvement in Gap site issues and in particular the Waddeton Inquiry, the society is convinced that any intensification of development within (or now adjoining) the Gap Landscape Setting Area, will weaken ECC's stated policy objective to maintain the Gap and avoid coalescence.

The proposals represent such an intensification, will undermine policy, are too big, too corporate in appearance and inappropriate to this site.

The Topsham Society urges ECC officers and members to refuse this application for the above reasons.

CONSULTATIONS

Environmental Health - Approval with conditions requiring compliance with working hours and submission of noise assessment for review and approval with any necessary mitigation measures being undertaken.

Highways England - To be reported at the Committee Meeting

Highway Authority - To be reported at the Committee Meeting

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework 2012:

4. Promoting Sustainable Transport
7. Requiring good design
8. Promoting healthy communities
11. Conserving and enhancing the natural environment
12. Conserving and enhancing the historic environment

Exeter Local Development Framework Core Strategy

- CP1 Spatial approach
- CP2 Employment development
- CP15 Sustainable design and construction
- CP17 Design and Local Distinctiveness

Exeter Local Plan First Review 1995-2011

- AP1 Design and location of development
- C5 Archaeology
- T1 Hierarchy of modes of transport
- T3 Encouraging use of sustainable modes of transport
- T9 Access to building by people with disabilities
- T10 Car parking standards
- EN2 Contaminated land
- DG1 Objectives of Urban Design
- DG2 Energy conservation
- DG7 Crime prevention and safety

Exeter Development Delivery Document – Publication Version 2015

- DD1 Sustainable Development
- DD20 Sustainable Movement
- DD21 Parking
- DD25 Design Principles
- DD26 Designing out Crime

Exeter City Council Supplementary Planning Documents

Sustainable Transport SPD March 2013

OBSERVATIONS

Office Use

The principle of an office in this location is considered to be acceptable due to the close proximity to residential dwellings in both Topsham and Exeter. It is small in scale and in a sustainable location in that it is on a major bus route, has a dedicated cycle path and is easily accessible on foot. The company are currently located at Matford Business Park where the offices are now too small to accommodate the number of staff.

The Topsham Gap

During the recent appeal on land close to this site, the Inspector noted that the "relatively flat fields of which the appeal site forms a part, between the west fringes of the town and the M5 also contribute to Topsham's separation". It was also noted that "the M5 forms a very strong boundary to the city's developed area and therefore the open land seen after the M5 when travelling towards Topsham is and will be, important in maintaining the separate character of Exeter and Topsham. This includes the University Sports Ground and two or three fields of agriculture and nursery land separated by hedges. The land to the west, even allowing for the M5 and the recently permitted housing south of Exeter Road, has a more open setting".

Design Principles

The building has been designed to sit adjacent to the embankment of the M5 bridge, at the front of the plot, close to Exeter Road. The office accommodation would amount to 870sqm gross floor area (618sqm net). The site was originally identified as potential open space for the adjacent residential scheme, but as the land off Wessex Close is now under the same ownership by the developer, the open space has been provided within the residential development, negating the need to use this site.

An archaeological investigation has been carried out and completed on the site, but the results have yet to be analysed and the report produced. To ensure that this work is completed a condition should be attached to a consent. The site is now laid with hardcore and is currently being used as a storage area and for site offices during the construction of the adjacent residential development.

The building has been designed to reflect the contemporary design of the adjacent residential development. It is predominantly 3 storey, but with a flat roof to minimise the overall height. The height of the building has been designed to reflect that of the 3 storey

elements of the residential properties opposite. The building has been set back from The Retreat Drive in order to reduce any loss of privacy to the residential dwellings which do not have any habitable room windows on the elevation facing the office building. The distance between the residential and office building would be 15.5m. The distance of the upper stories of the office building from the edge of the M5 bridge would be 23.5m.

The elevation facing the junction and into The Retreat Drive is predominantly glazed at first and second floor levels, which reduces the visual impact of the building. The remainder of the building would be red brick at ground floor to reflect the materials used in the residential development. Internally, open plan office space is mixed with some smaller offices and meeting rooms. A roof garden is also provided for use by staff. A lift as well as central stair case is provided to all floors providing full accessibility.

The site would be accessed from Exeter Road, with parking provided around the building on all sides. Car parking for 20 cars has been provided. This is in accordance with the required parking spaces with the Exeter Local Plan First Review 1995-2011. The staff employed mostly live locally and can access the site on foot, by bike or on the bus, reducing the need for any additional parking spaces. Secure cycle parking is provided in a single storey section of building at the rear. The bus stop will be relocated to the front of the residential development but still in immediate proximity to the office building.

Some additional landscaping is proposed around the car park area to screen the parking and the ground floor of the building. A fence is also proposed but no details have been provided.

A bin storage area will be provided within the single storey section to the rear of the office building.

CIL Liability

There is no requirement for CIL contributions as this is an office building.

Summary

Having reviewed the relevant policies for this site, the remaining Topsham Gap and the possible future use for this land, it is considered that the principle of an office building for this local business is appropriate. The key land identified in the recent appeal decision refers specifically to land north of Exeter Road although it was also stated that the first open land seen after the M5 when travelling towards Topsham is important to be maintained. With regard to the site now under review, it is such a narrow site that there is minimal contribution to this open aspect as it screened by the M5 bridge and embankment.

The building has been set back into the site so that it is not dominant in the streetscene when exiting from beneath the M5 bridge towards Topsham and the overall height, scale, massing and design approach is considered to be acceptable in this location. The design also ties in with the recently approved residential dwellings on the adjacent land.

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 on 29th July 2016 (*Dwg. No(s). Off-Dwg and Off-Sec1*), as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) C17 - Submission of Materials

- 4) C12 - Drainage Details
- 5) No development shall take place, including any works of demolition, until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials and 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, measures to minimise the impact on the adjacent footpath and timings of the proposed works. The approved Statement shall be adhered to throughout the construction period.
Reason: In the interests of highway safety and public amenity.
- 6) A noise assessment shall be undertaken for this application, which shall be submitted and approved in writing prior to commencement of the development. This report shall consider the impact of environmental noise on the development as well the impact of noise from new plant and equipment on neighbouring receptors. If, following the above assessment, the LPA concludes that noise mitigation measures are required, the applicant shall then submit a scheme of works to ensure that the development is protected from ambient noise and does not have a significant negative impact on local amenity. These measures shall be agreed in writing by the LPA and shall be implemented prior to and throughout the occupation of the development.
Reason: To protect future occupiers of the building.
- 7) A detailed scheme for landscaping, 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 development shall take place 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.
- 8) No part of the development hereby approved shall be brought into its intended use until secure cycle parking facilities have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.
Reason: To provide for sustainable transport and ensure that adequate facilities are available for the traffic attracted to the site.
- 9) Travel Plan measures including the provision of sustainable transport welcome packs shall be provided in accordance with details agreed in writing by the Local Planning Authority and Local Highway Authority in advance of occupation of the development.
Reason: To promote the use of sustainable transport modes and in the interest of highway safety, in accordance with paragraphs 32 and 36 of the NPPF.
- 10) No development shall take place until a Construction and Environment Management Plan (CEMP) has been submitted to, 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;

d) Details of access arrangements and timings and management of arrivals and departures of vehicles.

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

Reason: In the interests of the occupants of nearby buildings.

- 11) The buildings hereby approved shall achieve a BREEAM 'excellent' standard as a minimum, and shall achieve 'zero carbon' if commenced on or after 1 January 2019. Prior to commencement of such a building the developer shall submit to the Local Planning Authority a BREEAM design stage assessment report, the score expected to be achieved and which standard this relates to. Where this does not meet the minimum required standard the developer must provide details of what changes will be made to the development to achieve the minimum standard, and thereafter implement those changes. A post completion BREEAM report shall be submitted to the Local Planning Authority within 3 months of the substantial completion of any such building hereby approved. The required BREEAM assessments shall be prepared, and any proposed design changes approved prior to commencement of the development, by a licensed BREEAM assessor.

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

- 12) C57 - Archaeological Recording

- 13) No part of the development hereby approved shall be brought into its intended use until the visibility splays and on-site parking have been provided in accordance with the requirements of this permission and retained for those purposes at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site.

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



16/09/2016

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Agenda Item 7

ITEM NO. 7

COMMITTEE DATE:

31 OCTOBER 2016

APPLICATION NO: 16/0972/03 FULL PLANNING PERMISSION
APPLICANT: Redrow Homes West Country
PROPOSAL: Proposed residential development for 47 units, vehicular access, landscaping, open space and associated works
LOCATION: Land east of railway line between Apple Lane and A379, Apple Lane, Exeter, EX2
REGISTRATION DATE: 01/08/2016
EXPIRY DATE: 31/10/2016

HISTORY OF THE SITE

Planning permission was granted in 1998 for a B1, B2 and B8 Use in connection with a sand extraction business (98/0643/01). This permission was never implemented and has now expired.

Planning permission (12/0500/03) was granted for 190 dwelling at the former Bishops Court Quarry on the adjacent site in April 2013 and is currently under construction.

DESCRIPTION OF SITE/PROPOSAL

The application site (1.8 ha) is located on land to the east of the Exeter to Exmouth railway line and between Apple Lane and the A379. The site effectively forms an extension to the Bishops Way residential development by Redrow Homes, which is currently under construction. The eastern boundary of the site is marked by an existing footway which connects the footway running alongside Apple Lane across to Baker Bridge and Sandy Park. Vehicular access to the site would be created across this footway and form a continuation of Bishops Way, which ultimately connects onto Sidmouth Road from Apple Lane.

The application seeks to construct 47 dwellings in total comprising of 5 x two bedroom; 13 x three bedroom; 18 x four bedroom houses, 9 x two bedroomed flats within one block and 2 x two bedroomed disabled compliant bungalows. The dwellings are to be constructed of brick and render and are designed to reflect the style of existing properties currently being building by Redrow on the adjacent site. An area of open amenity space is proposed within the south western section of the site.

The site is identified within the Exeter Local Plan an employment site and within the minerals consultation area. The application has been publicised as a Departure from the Local Plan.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The application is accompanied by the following supporting documents:-

Planning Statement
Design and Access Statement
Ecological Site Investigation
Tree Survey and Vegetation Management Plan
Air Quality Assessment
Noise Assessment
Flood Risk Assessment and Surface Water Drainage Strategy
Foul Drainage and Utilities Report
Geo-Technical and Ground Investigations Report
Landscape and Ecological Management Plan
Site Waste Management Plan
Transport Assessment and Travel Plan
Sustainability Statement

REPRESENTATIONS

19 letters of objection. Principal issues raised:-

1. Increased vehicular traffic using Bishops Way creating safety issues for existing residents;
2. Pedestrian safety concerns regarding proposed access road crossing the footway to Baker Bridge;
3. Increased traffic onto Sidmouth Road leading to congestion, in particular the M5 junction 30 roundabout;
4. Greater volume of traffic affecting the movement of emergency vehicles entering the site;
5. Need to prevent pedestrian access from Bishops Way to the footway serving Sandy Park to reduce the existing/future problems of noise, disturbance, disruption, litter and vandalism from rugby supporters;
6. Exacerbate existing parking problem on rugby matchdays to existing residents in Bishops Court;
7. Need for better traffic calming measures within existing estate;
8. Need to improve pedestrian/cycle link into the site from the Apple Lane footway;
9. Insufficient detail of cycle parking provision to serve the dwellings;
10. Loss of green/open space;
11. Lack of existing and future play provision within the area;
12. Poor siting of public open space;
13. Detrimental impact on wildlife within site and the surrounding area;
14. Pressure on local services and access to doctors and schools;
15. Potential overlooking into existing properties located in Apple Farm Grange and Clyst Halt Avenue;
16. Site should be used for industrial purposes as allocated in the Local Plan;
17. Unauthorised work on the public footpath;
18. Lack of sufficient regard to landscape/wildlife/ecological matters in respect of the construction of the temporary footway;
19. Need for an access off Clyst Heath Avenue or the A379 to avoid traffic congestion at Apple Lane/Sidmouth Road junction.
20. Site should be used to provide additional services for existing residents such as a shops, a pub or as public open space;
21. Unacceptable noise and disruption during construction period;
22. Increased dwellings will put pressure on internet access speeds;

2 letters of comment:-

1. Need to ensure that roundabout serving the development from Apple Lane has sufficient capacity to serve the development and that the traffic signalling has considered the additional traffic using the Apple Lane/Sidmouth Road junction.
2. Need for traffic regulation orders to be imposed on rugby match days to prevent parking problems for existing residents.

CONSULTATIONS

The County Head of Planning, Transportation and Environment comments that this development would essentially form an extension of the Bishops Court Quarry residential development of 191 dwellings that is accessed from the Apple Lane roundabout and partially occupied.

Traffic Impact

It should be noted that the Phase 1 application was for 225 dwellings and the traffic from that level of development was accepted as part of that application. Given the 190 dwellings approved through the reserved matters that are to be constructed on site, the current

application represents an additional 12 dwellings above that already approved. The additional 12 dwellings are expected to generate in the order of 50-60 vehicular trips per day (or 5-6 in the per peak hours).

Vehicular Access

Access to the site is proposed across the existing Apple Lane path connecting to the Baker Bridge. In addition to being an important sustainable transport route, this link is exceptionally busy on Exeter Chief matchdays. It is therefore essential that an appropriate design for this to maintain a high quality pedestrian route is provided.

The proposed vehicular access from Apple Lane and onto Sidmouth Road signals that already serves the business park was considered acceptable for accommodating the traffic from the 225 dwellings in the original planning application. The modest additional traffic movements from 12 dwellings are not expected to significantly change this and therefore are acceptable.

Pedestrian Access and Internal Roads

The onsite layout has been progressed through liaison with DCC, although largely content with the vehicular layout in providing a suitable low speed residential street, the proposed cul-de-sac and lack of pedestrian and cycle permeability is not considered appropriate.

In particular, the site is within close proximity to the Digby and Sowton Rail station with some of the proposed dwellings within 300 metres of the station. With journey times of 7 minutes to the city centre and, in future, 20 minutes to Marsh Barton industrial estate, rail is an attractive alternative to the private car. To maximise the modal split for rail convenience (rather than convoluted) access needs to be provided for nearby residents to this station. However, the lack of a connection at the northern boundary of the site to the Apple Lane path doubles the walking distance from some of the proposed houses to the rail station.

Such a lack of permeability is not in-keeping with the design principles of Manual for Streets and is contrary to various policies of the Exeter Core Strategy and the underlying transport principle of the NPPF that the transport system needs to be balanced in favour of sustainable transport. To address this the applicant was advised in pre-application discussions that a pedestrian/cycle connection would need to be provided on the northern boundary, most likely in the vicinity of plots 16-18. A condition is therefore recommended to secure a shared use path of appropriate width (3.0 metres).

To ensure appropriate highway treatment and construction, particularly for the areas of shared space, a condition is also recommended to ensure appropriate construction details are approved prior to commencement.

Travel Plan

In accordance with paragraph 36 of the NPPF the development will be required to have a Travel Plan. As identified in the submitted transport statement DCC is currently adopting a new approach for residential Travel Planning in the Exeter area with contributions paid directly to the Council for them to implement the Travel Plan and its measures.

For this site it is acknowledged that the first phase of this development was consented before the introduction of the DCC centred Travel Planning and that the developer produced their own travel plan. Given that the updating of the Phase 1 Travel Plan information for the Phase 2 site is likely to be limited, it is felt that the developer should be given the option for phase 2 to either:

- Pay a Travel Plan contribution of £500 per dwelling
- Produce a Travel Plan and information packs for residents and pay a financial contribution for the provision of cycle and public transport vouchers

The financial element of these arrangements should be secured through a S106 Agreement.

Other Matters

Discussions are underway between Redrow and DCC to implement Residents Parking on the Phase 1 site and a contribution to cover the cost of this and other appropriate parking restrictions for the second phase is requested.

Summary

Given the modest scale of development and that a safe and suitable access to the site can be achieved for all users, the proposed development can be acceptable. However, critical to this is that appropriate permeability is provided to give residents convenient access to local rail and sustainable transport networks. This can be overcome with an appropriate condition. Therefore, subject to appropriate conditions and contributions toward sustainable transport being secured by appropriate legal agreement, no objection is raised.

Housing Development Officer comments that 35% of the total dwellings must be affordable in line with the Affordable Housing SPD, which for 47 dwellings would be 16.45 dwellings. This would be 16 units delivered on site and a financial contribution for the remaining 0.45. The developer has proposed to provide 17 units on site which equates to 36.2% on site affordable housing. In accordance with the Affordable Housing SPD at least 70% of the affordable units are required to be social rent (12 units) the remainder to be intermediate affordable housing (5 units). The Affordable Housing SPD requires the affordable housing provision to achieve a representative mix of the open market units (including number of bedrooms), however, the Housing Development Officer has agreed a slightly different mix. In addition, 5% (1 unit) of the affordable housing is required to be provided as wheelchair accessible in accordance with the Council's Wheelchair Housing Design Standards and the developer has agreed that 2 units (11.8%) will be provided. These units will be provided as bungalows which meets the greatest need for wheelchair accessible units. The affordable housing will be provided in clusters of no more than 10 units.

The Flood and Coastal Risk Management Team initially raised objection concerned that insufficient details have been provided to ensure that the development is mitigated against flood risk and that SUDS have been suitably incorporated into the system. However further details have been provided by the developer which confirms that the proposed outfall point within the existing Bishops Court development has sufficient capacity to accept the proposed flows from the development and therefore such an arrangement is acceptable in this instance to provide a long-term maintainable drainage system at this location. However it is recommended that a condition is imposed in respect of surface water drainage during the construction phase. Accordingly the team now raise no objection to the scheme.

South West Water raise no objection.

Devon and Somerset Fire Service initially raised concern about details originally submitted but following discussions with the developer are satisfied that the road layout will accommodate fire service vehicles and accordingly raise no objection to the scheme.

Network Rail raise no objection to proposal but require issues in respect of fencing; drainage; safety; proximity of buildings to boundary; piling; excavation/earthworks; effects of noise/vibration/dust; proximity of trees and plant/scaffolding/cranes to be addressed by contacts the Network Rail's Asset Protection Western Team in advance of work commencing on site.

RSPB comment on the need for additional swift boxes and question the height of the boxes which have been indicated on the plan. (*This can be addressed by condition*).

Heritage Officer comments that the archaeological reports submitted with the application identify that there are remains of Roman date on part of the application site. These remains, although potentially significant in terms of the knowledge they may contain about how this site was used then, and what was going on around the city at that time, are not well

preserved and therefore do not represent a constraint on the principle or layout of the proposed development. It is therefore recommended that the proper excavation and recording of these remains, in lieu of their destruction, is secured by condition.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance - National Planning Policy Framework

Exeter Local Development Framework Core Strategy

CP1 - The Spatial Approach
CP2 - Employment
CP4 - Density
CP5 - Meeting Housing Needs
CP7 - Affordable Housing
CP11 - Pollution and Air Quality
CP12 - Flood Risk
CP14 - Renewable and Low Carbon Energy
CP15 - Sustainable Construction
CP16 - Green Infrastructure
CP17 - Design and Local Distinctiveness
CP18 - Infrastructure

Exeter Local Plan First Review 1995-2011

AP1 - Design and Location of Development
AP2 - Sequential Approach
H1 - Search Sequence
H2 - Location Priorities
E3 - Retention of Employment Land or Premises
L4 - Provision of Playing Pitches
T1 - Hierarchy of Modes
T2 - Accessibility Criteria
T3 - Encouraging Use of Sustainable Modes
EN5 - Noise
DG1 - Objectives of Urban Design
DG4 - Residential Layout and Amenity
C5 - Archaeology

Site lies within a Mineral Consultation Area

Exeter City Council Supplementary Planning Document
Residential Design Guide (adopted September 2010)
Affordable Housing SPD

OBSERVATIONS

The application site is allocated in the Exeter Local Plan as an employment site and was granted planning permission in 1998 for B1, B2 and B8 Use in connection with a sand extraction business. This permission was never implemented and has subsequently expired. Since this approval the adjacent site has subsequently been granted planning permission by Redrow Homes for 190 dwellings. This site is currently under construction and a significant number of dwellings have now been occupied. The development of the adjacent site for housing has effectively reduced the application site's potential and indeed desirability for future industrial usage. Consequently given the potential incompatibility of the site for industrial use in close proximity to residential use the site was subsequently identified in the 2015 SHLAA as a potential housing site. This approach is compatible with paragraph 22 of the National Planning Policy Framework which states that '*...planning policies should avoid*

the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.... This approach has been endorsed by Members in respect of meeting the Council's identified 5 year housing supply deficit. Accordingly it is considered that the principle of residential development on the site is considered appropriate.

Given that Redrow Homes is also developing the adjacent site there will be a continuity in respect of layout and house type design. It is considered that the existing development, currently under construction, represents a positive form of development for this area and the continuation of this approach is therefore supported. The scheme provides a strong streetscape along the main spine road and the overall level of private amenity provision for individual households is compatible with the Council's Residential Design SPD. Although the proposed open space is not centrally located it does meet the 10% requirement and is intended to have a wildlife amenity function rather than as a formally laid out play area. Whilst the number of dwellings proposed do not require, in local plan policy terms, an equipped play area, it is recognised that the estate will be used as a whole and consequently the developers have agreed to provide additional play provision within the central play area. This will be addressed within the legal agreement.

Existing residents within Bishops Court have raised concern about highway issues particularly in terms of the pressure additional vehicles from the new houses will have on the main spine road and the junction of Apple Lane and Sidmouth Road. The County Highway officer has raised no objection to the scheme subject to suitable conditions being imposed, particularly in respect of details of the highway treatment where the road crosses the footway to Baker Bridge and the need for a financial contribution towards travel planning. The Highway officer comments that the original traffic report for the Bishops Quarry was based on an anticipated 225 dwelling from the adjacent development site. Consequently the combination of the approved development and the additional dwellings proposed amount to an increase of 12 from the original report and is not considered significant in traffic flow terms. It is therefore concluded that the existing access and signal arrangement at Sidmouth Road for the site are acceptable. However the Highway officer has sought to improve the sustainable aspect of the development by requiring a pedestrian/cycle link to the north of the site and therefore ensure that residents have better access to and from the adjacent footpath and importantly to the Digby and Sowton railway station. This new route has been included on revised plans and is considered acceptable in principle, subject to details being agreed by a planning condition.

Residents have raised concern regarding the increased access potential visitors to Sandy Park in vehicular and pedestrian terms, the new development will create by opening up the footpath to the Sandy Park rugby stadium from Bishops Court. Residents have experienced parking problems and incidents of noise, disturbance, litter and vandalism from rugby supporters on matchdays and are concerned that these problems will be exacerbated with the increased possibility for parking on the spine roads and with better access for supporters to use the footway from the existing estate. Whilst it is not possible, within the planning system, to police the movement and behaviour of supporters, it is recognised that on matchdays this can be a real concern for residents. The Highway officer has required a financial contribution towards a Traffic Regulation Order within the terms of the legal agreement and it is anticipated that this will help address parking problems on matchdays, although this will only occur following highway adoption. In the meantime, it is understood that Redrow will continue to provide parking enforcement for the area, although this is outside planning control.

The Council's Housing officer has been in discussion with the developer regarding the affordable housing provision on site. The developer has proposed to provide 17 units on site which equates to 36.2% on site affordable housing and above the 35% as required by Local Plan policy. In addition, a slightly different mix from the Affordable Housing SPD has been agreed but this has enabled the provision of two wheelchair compliant bungalows to be

provided. Consequently it is considered that the affordable housing requirement on the site has been met and this will be delivered through the Section 106 Agreement.

Local residents have raised objection to the reduction in the site's wildlife potential and the loss of existing hedgerows which surround the site. The developer has prepared a Landscape and Ecology Management Plan which addresses the overall approach to landscape provision within the site and the mitigation measures proposed. This document outlines the design of the open space as a wildlife pond and wildflower/grassed area; the provision of existing trees within the front gardens of properties and along the perimeter of the site and the creation of a Devon Bank around part of the site adjacent to the footway. Given that the site was originally designated in the Local Plan as an industrial site, it is considered that the environmental improvements proposed represent a positive improvement for the area and therefore subject to a landscape condition that ensures these works are carried is considered appropriate.

Residents in Apple Farm Grange/Clyst Halt Avenue have raised concern about possible overlooking from the new development however it is considered that given the distance between the proposed and existing properties is over 40 metres this relationship is considered acceptable. Residents have also raised issues regarding flooding and noise and disturbance during future construction work but these have been addressed either through the consultation responses or through the imposition of suitable planning conditions.

In summary, it is considered that this extension to the site currently being developed for housing is acceptable in planning policy terms and would represent a more appropriate use than the industrial use which was previously approved and allocated. The layout of the scheme reflects the neighbouring development which is viewed positively and therefore given the incorporation of landscaping within the site will ultimately result in an appropriate form of development for the site. Accordingly it is recommended that the application is approved.

The proposed development is estimated to yield approximately £398,413 in Community Infrastructure Levy and approximately £360,000 at the current 6 year rate (£288,000 to ECC and £72,000 to DCC) in New Homes Bonus.

RECOMMENDATION

Subject to the completion of a Section 106 Agreement to secure affordable housing, a financial contribution toward a Traffic Regulations Order, Travel Planning and provision of additional play equipment within the adjacent site's central play area **APPROVE** the application subject to the following conditions:-

- 1) C05 - Time Limit - Commencement
- 2) C15 - Compliance with Drawings
- 3) C17 - Submission of Materials
- 4) C23 - Permitted Development Restriction
- 5) C35 - Landscape Scheme
- 6) C37 - Replacement Planting
- 7) 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 details of compliance

provided to the local authority.

Reason: In the interests of the amenity of the occupants of the buildings hereby approved.

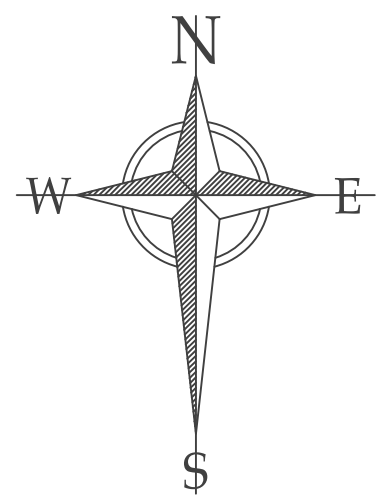
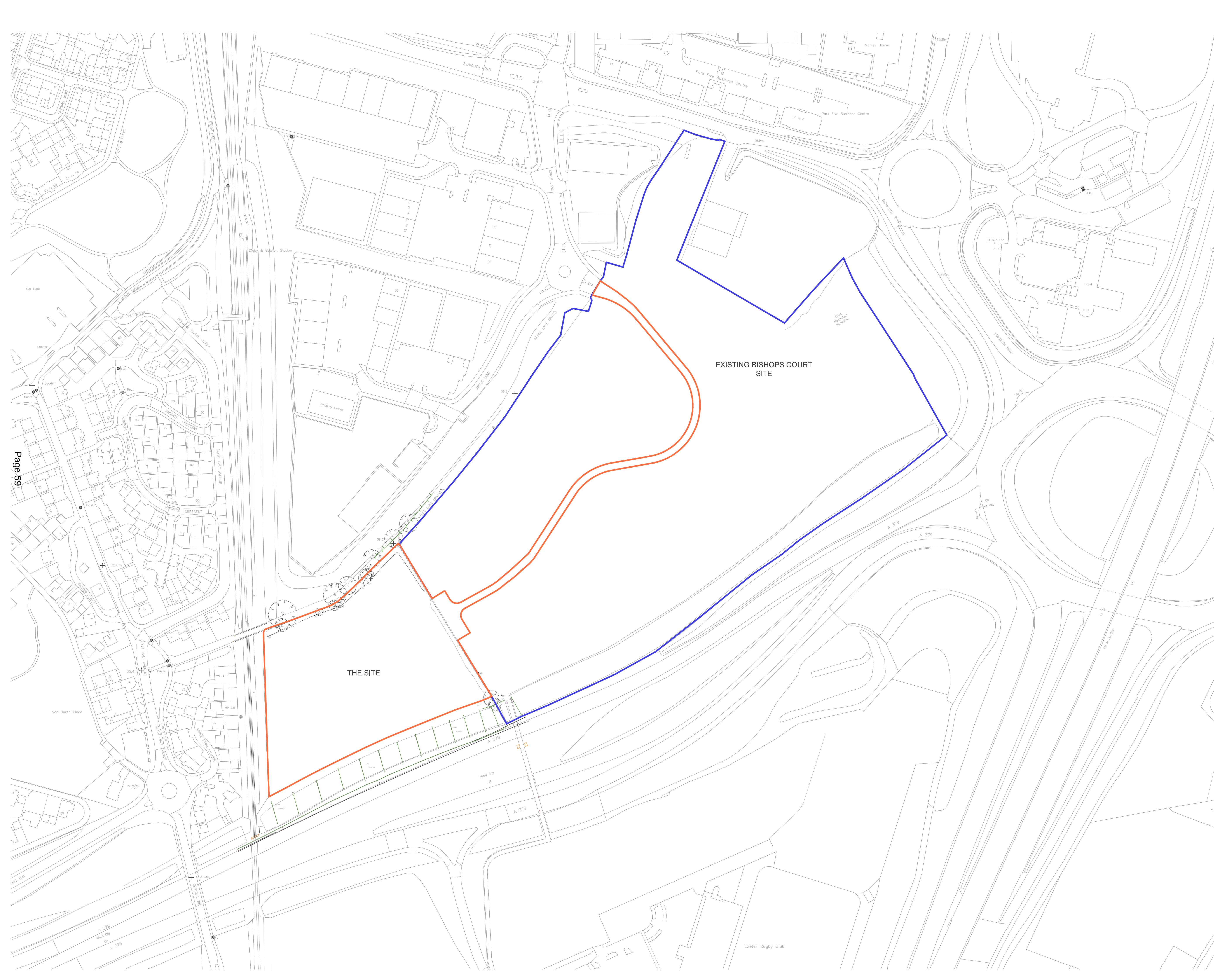
- 8) No construction work shall be undertaken, or machinery operated, within the site outside the hours of 0730 to 1800hrs Mondays to Fridays, 0730 to 1300hrs on Saturdays, nor at any time on Sundays or public holidays without the prior written consent of the Local Planning Authority.
Reason: In the interests of the residential amenity of the occupants of surrounding property.
- 9) A Construction Environmental Management Plans (CEMP) shall be submitted to and agreed in writing by the local planning authority prior to the commencement of development on site and work during the construction period shall be carried out in accordance with the approved details. This shall include details of mitigation measures to control the environmental impact of construction phases, including site traffic, vibration, noise and dust, as well as details of monitoring, complaints handling and arrangements to meet regularly with the local authority.
Reason: In the interest of the environment of the site and surrounding areas.
- 10) C72 - Highway - Estate Roads etc
- 11) Prior to the occupation of any dwelling the means of access and parking for that dwelling shall be provided in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for those purposes at all times.
Reason: To ensure that adequate facilities are available for the traffic attracted to the site.
- 12) No development shall take place until an Environmental Management Plan, to include the on-site open space provision, which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out entirely in accordance with the approved plan.
Reason: To ensure that the wildlife opportunities associated with the site are maximised in the interests of biodiversity.
- 13) Notwithstanding condition no 2 and prior to first occupation of the dwellings full details of the sound insulation measures shall be submitted to and approved in writing by the Local Planning Authority and the following shall thereafter be provided in accordance with such details:
Reason: Insufficient information has been submitted with the application and in the interests of residential amenity.
- 14) Prior to occupation of the development hereby permitted, secure cycle parking shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority, and the cycle parking shall be maintained thereafter.
Reason: To ensure that cycle parking is provided, to encourage travel by sustainable means in accordance with Local Plan policy T3.
- 15) No part of the development shall be occupied until the proposed raised table access crossing the Apple Lane path to Baker Bridge footway has been provided in accordance with details to be submitted to and agreed in writing by the Local Planning Authority and retained for those purposes at all times.
Reason: To ensure that a safe and suitable access to the site is provided for all users, in accordance with paragraph 32 of the National Planning Policy Framework.

- 16) No more than 15 dwellings on the development hereby approved shall be occupied until details of a pedestrian/cycle connection of at least 3 metres width between the site roads and Apple Lane path to be provided on the northern boundary of the site, in the vicinity of plots 16/17 and 18 has been submitted and approved in writing and implemented in accordance with the agreed details. The agreed link shall be maintained for public use at all times.
Reason: To provide safe and suitable access for sustainable transport modes in accordance with Section 4 of the National Planning Policy Framework.
- 17) Prior to occupation of any dwelling hereby approved details of provision for nesting swifts shall be submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.
Reason: In the interests of preservation and enhancement of biodiversity in the locality.
- 18) C57 - Archaeological Recording
- 19) No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall be constructed in accordance with the approved details at all times during the construction period unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure that the surface water from the construction site is appropriately managed to prevent increase to flood risk or pose water quality uses to the surrounding area.

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

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KEY

- Site Boundary
- Redrow development
Refer to planning application
Ref: 12/0500/03

Revision	Date	Amendment	Initials

Development	Bishops Court Extension		
Location	Exeter		
Marketing Name	-		
Drawing Title	Location Plan		
Drawing Number	RHWC.8018.02.LP001		
Revision	/	Scale @ A1	1:1250
Drawn By	EW	Date Started	July 2016
Checked by		Date	


REDROW HOMES
 Redrow Homes WC
Redrow House, Pyram Hill, Exeter, Devon, EX2 5AZ.
 Tel: 01392 850400 Web: www.redrow.co.uk

Legal Disclaimer TBC
This layout has been designed after due consideration of our Context & Constraints Plan

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Agenda Item 8

ITEM NO. 8

COMMITTEE DATE: 31 OCTOBER 2016

APPLICATION NO: 16/0872/03 FULL PLANNING PERMISSION

APPLICANT: Mr Cotter

CDS Superstores (International) Ltd

PROPOSAL: Extension to retail warehouse of 1,363 sq m (GIA) to be used primarily for the sale of garden centre goods, poultry and pet products, and decorative items including housewares and gardenware (Use Class A1), with ancillary internal cafe (190 sq m), following demolition of wall/fence, and provision of ancillary air conditioning plant to the rear of the existing building (revised description).

LOCATION: Former B & Q Retail, Alphington Road, Exeter, EX2 8HG

REGISTRATION DATE: 01/08/2016

EXPIRY DATE: 31/10/2016

HISTORY OF SITE

The existing retail warehouse was granted outline planning permission with conditions on 02.10.1986 by the Secretary of State following an appeal for non-determination within the appropriate period (ref. 85/1023/01) (appeal ref. T/APP/Y1110/A/85/040173/P6). The reserved matters were approved the following year on 18.03.1987 (ref. 86/1052/02).

Condition 3 of the outline permission restricted the gross external floor area of the building to a maximum of 40,000 sq ft (3,716 sq m) and garden centre to a maximum of 10,000 sq ft (929 sq m).

Condition 5 of the outline permission restricted the sale of goods from the premises to:

- Carpets
- Furniture
- Electrical goods
- Sanitary ware including bathrooms, kitchen and bedroom units
- Decorative products including ceramic tiles, wallpapers, paint and floor coverings
- Timber wall boards, packs of sand and cement, guttering and pipes, doors and other building materials and home improvement goods
- Tools and equipment
- Garden supplies and associated items
- Auto parts
- Sports goods
- Chandlery and marine accessories
- Hobbies and toys

Condition 8 of the outline permission restricted the time of retail sales to the hours of 9am to 8pm Mondays to Saturdays inclusive and 9am to 6pm on Sundays and Bank Holidays.

The additional relevant planning history is shown below:

88/0006/03 -	Part change of use to form tyre service depot for storage, distribution, fitting & repair of tyres, batteries	REF	15/03/1988
94/0371/03 -	Erection of non-food retail outlet including alteration to existing car park and entrance to B & Q building and relocation of garden centre	PER	07/07/1995
95/0517/03 -	Erection of service yard canopy	PER	31/08/1995

- 16/0984/03 - Removal of Condition 3 regarding building's floor space limitation, variation of Condition 5 redefining goods to be sold from the premises and variation of Condition 8 to allow extended hours of opening to 9 PM Monday to Saturday of Planning Application 85/1023/02 allowed at appeal on 2 October 1986 (revised description). Pending
- 16/0993/03 - Change of use of part of retail warehouse service yard to external garden centre (ancillary A1 use), insertion of glazed doors on Northeast elevation of warehouse and erection of 3M fence. Pending

DESCRIPTION OF SITE/PROPOSAL

The application site comprises the vacant retail warehouse (3,716 sq m GEA) formerly occupied by B&Q together with all associated land, including car park, service yard and garden centre in Alphington. It is bounded by the railway line to the north, allotments to the east, residential properties in Edwin Road and St Andrew's Church to the south, and Alphington Road, Aldi and Iceland to the west. The site is in Flood Zone 3. Prince's Square Conservation Area adjoins the site to the west, but there are no other above ground heritage assets within the immediate vicinity. There are TPO'd trees (TPO No. 537) to the west of the site fronting Alphington Road and the access to the car park. The site is in an out-of-centre location and is undesignated in the adopted Local Plan and Core Strategy. The new extension will be sited on the former garden centre and the air conditioning plant will be sited to the rear of the existing building.

The application has been submitted at the same time as an application to vary conditions of the original planning permission for the retail warehouse and an application to change the use of part of the service yard to garden centre to allow beneficial occupation by The Range. The documents state that the store will become the company's primary retail outlet in the city, but the existing store (4,100 sq m gross) will be retained with a different retail offer. As extended, the retail warehouse will have a gross floor area of 5,079 sq m (4,146 sq m net sales).

This application proposes to build an extension to the retail warehouse on the site of the former garden centre adjacent to the access to the site. It will have a gross internal floor area of 1,363 sq m, including 190 sq m ancillary café. It will have doors on the north and west elevations providing potential additional customer entrances from the car park and existing footway. The overall height of the extension will be 5m; this is lower than the existing building which is approximately 8m. However, part of the north, west and east elevations will be 6m high, with 700mm depth recessed windows. The frontage of the extension will be clad in Rockpanel Chameleon in red-gold-purple assortment, which changes colour depending on the angle it is viewed. The remainder of the extension will be clad in light grey coloured panels.

The application has been revised to include air conditioning plant behind the existing building. The design of the extension was also revised. The car parking layout will be slightly amended to improve pedestrian access with the resultant loss of four spaces (net).

The application includes part demolition of the wall/fence around the former garden centre. This has been carried out and the plant has also been installed, so the application is retrospective in part.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

- Design and Access Statement (superseded)

Additional Information Submitted During Application

- Design and Access and Heritage Impact Statement (MWA) (August 2016)
- Supporting Planning and Retail Statement (MWA) (August 2016)
- Plant plan – Mechanical Bases Ground Floor ref. M401 (August 2016)
- Flood Risk Assessment & Drainage Strategy (RMA Environmental) (19th September 2016)
- Arboricultural Report (First Ecology) (September 2016)
- Transport Statement (Vectos) (September 2016)
- Noise Impact Assessment (Clarke Saunders Acoustics) (10 October 2016)

REPRESENTATIONS

The application has been publicised twice. The second publicity period followed the revision to include air conditioning plant in the application and runs to 27 October 2016. Objections have been received from the owners/occupiers of 16, 17 and 18 Edwin Road, and 41 Alphington Road, which is on the corner of Alphington Road/Edwin Road. Comments were also received from the owners/occupiers of 20 and 24 Edwin Road. The following issues were raised:

- Overshadowing/blocking light from extension.
- Lack of landscaping behind the extension shown on the plans.
- Not rendering the block wall.
- Gap behind extension provides crime opportunities for residential properties in Edwin Road and s
- Good for new business to provide jobs and services to local area, but will noise/floodlighting be controlled and will tenant or owner have responsibility for trees and fence to the rear of the building?
- Mislabelling use of the extension as garden centre.
- Size of extension too large.
- Extension closer to properties in Edwin Road than existing building.
- Maintenance of security fence.
- DAS states no landscaping considered necessary – disagree; landscaping conditions should be r
- Design lacks merit and there should be more use of red brick to fit in with local character.
- Rear elevation facing Edwin Road residential properties should not be blue/orange (amended in revised plans).
- Inadequate parking taking into account Aldi and Iceland.
- Potential for overspill parking on Edwin Road (particularly if The Range charge for car parking).
- Reduction in flood capacity.
- Green Travel Plan required.
- Secure cycle parking required.
- Footway should be provided beneath railway arch.
- Café not desirable.
- Impact of internal music/tannoy announcements on residential properties.
- Impact of traffic generation on junction and air quality.
- Loss of landscape screening and bamboo should be removed as damaging fence.
- Inefficient traffic signals leads to accidents.
- Style of building not in keeping.
- Noise impact of air conditioning plant on residential properties in Edwin Road, which have alread
- Removal of landscaping to install plant and lack of space for replacement landscaping.
- Raised section of roof of existing building should be lowered.
- Impact of employees smoking behind the building on health of neighbouring residents.
- Air conditioning plant should be relocated away from residential properties.

CONSULTATIONS

Devon County Council (Local Highway Authority): No objection subject to £90,000 contribution to provide staggered pedestrian crossing at Alphington Road/Sydney Road junction and conditions to secure onsite road marking and pedestrian improvements. The proposal will increase traffic to the site by 50% resulting in 1-1.5 more vehicles exiting the site per signal cycle, increasing queues at the junction with most detriment to drivers exiting the site. This is not sufficient to refuse the application. Pedestrian movement to the site will significantly increase. Proposed onsite improvements including a zebra crossing and dedicated pedestrian route are essential and should be secured by condition. Secure cycle parking is not shown on the plans and should be secured by condition. 223 car parking spaces will be retained with 12 disabled spaces. This has been calculated to be sufficient to meet the estimated demand.

The Environment Agency: No objection.

Devon County Council (Lead Local Flood Authority): Object – application does not conform to Policy CP12 (Flood Risk) requiring all development to mitigate flood risk and utilise SUDS where feasible and practical. Additional information required to show how site is/will be drained and that this is sufficient.

Network Rail: Comments awaited.

Historic England: Comments awaited.

South West Water: Originally commented that there is a public sewer in the vicinity of the site and surface water run-off should be discharged as high up the hierarchy of drainage options as is reasonably practical. Following submission of Flood Risk Assessment and Drainage Strategy stated they have no concerns with discharge to public surface water sewer.

Environmental Health (ECC): Requested details of noise mitigation measures for air conditioning plant if preferred option of relocation isn't possible, due to significant adverse impact of noise from the plant on neighbouring properties. Also recommended conditions to control construction hours and secure details of extraction equipment in relation to the café.

Heritage Officer (ECC): No concerns regarding archaeological potential (verbal comments only).

Arboricultural Officer: The Arboricultural Report and its proposals are acceptable.

PLANNING POLICIES/POLICY GUIDANCE

Government Guidance

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Core Strategy (Adopted February 2012)

Core Strategy Objectives

CP1 – Spatial Strategy

CP8 – Retail

CP11 – Pollution

CP12 – Flood Risk

CP13 – Decentralised Energy Networks

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development
AP2 – Sequential Approach
S1 – Retail Proposals/Sequential Approach
S2 – Retail Warehouse Conditions
T1 – Hierarchy of Modes
T2 – Accessibility Criteria
T3 – Encouraging Use of Sustainable Modes
T9 – Access to Buildings by People with Disabilities
T10 – Car Parking Standards
C1 – Conservation Areas
EN4 – Flood Risk
EN5 – Noise
DG1 – Objectives of Urban Design
DG2 – Energy Conservation
DG3 – Commercial Development
DG7 – Crime Prevention and Safety

Development Delivery Development Plan Document (Publication Version, July 2015)

DD1 – Sustainable Development
DD13 – Residential Amenity
DD20 – Accessibility and Sustainable Movement
DD21 – Parking
DD25 – Design Principles
DD26 – Designing out Crime
DD28 – Conserving and Managing Heritage Assets
DD32 – Local Energy Networks
DD33 – Flood Risk
DD34 – Pollution and Contaminated Land

Exeter City Council Supplementary Planning Documents

Sustainable Transport SPD (March 2013)
Planning Obligations SPD (April 2014)
Trees and Development SPD (Sept 2009)

OBSERVATIONS

The key issues are:

1. The Principle of the Proposed Development / Retail Policy Issues
2. Access and Impact on Local Highways
3. Parking
4. Design and Impact on the Setting of the Conservation Area
5. Impact on Amenity of Neighbouring Properties
6. Impact on Trees
7. Surface Water Drainage and Flood Risk
8. Sustainable Construction and Energy Conservation

1. The Principle of the Proposed Development / Retail Policy Issues

The proposed extension will have a floor area of 1,363 sq m (1,173 sq m net sales). It is a 'major' retail development by itself. The site is in an out-of-centre location, therefore the Council's retail policies and national guidance to ensure the vitality and viability of town centres apply. The applicant has submitted a sequential assessment and impact assessment accordingly. These have been undertaken on the basis of the applicant occupying the existing,

vacant premises with a new permission varying the types of goods that can be sold (ref. 16/0984/03) and extending the building to increase the overall net sales area (4,146 sq m).

The applicant argues that the need to consider the floorspace of the extension alone (disaggregate) as part of the NPPF requirement to demonstrate flexibility when applying the sequential test is no longer supported by national guidance or case law. Therefore, the project must be considered as a whole. Officers agree in this case and recognise that the extension is unlikely to be built unless the application to vary conditions of the extant planning permission to allow beneficial occupation by The Range is approved. This is supported by the applicant's business model stating the requirement for retail units with large floor areas between 3,500 sq m and 7,500 sq m+. It is further supported by the fact that The Range already has a store in the city, which has a gross floor area of 4,100 sq m meaning there would be no advantage in occupying the premises (3,716 sq m) without the extension. Conditions can be used to tie the applications together.

Officers agree that the only potential sequentially preferable site for the proposal is the Bus and Coach Station site. The BCS site has outline planning permission for a mix of uses, including up to 11,000 sq m of retail floorspace. A reserved matters application for the commercial element is expected shortly following a public exhibition by the developer in the summer.

The applicant accepts that the BCS site is available. However, the applicant considers that it is not suitable or viable for the proposed development. This is because of its floorspace requirements and indication that the BCS site will be split into smaller units aimed at attracting 'high street' retailers. The applicant also points out that it can sell the majority of goods it intends to sell from the existing premises under its extant permission, which is a material consideration (see Officer Report for 16/0984/03).

The applicant has carried out an impact assessment of the proposal on the vitality and viability of the City Centre and District Centres. It argues that the majority of trade diversion will be from the existing store in Exeter, which it says will change format to have a different retail offer. Trade will also be diverted from existing retail warehouses in this part of Exeter. The impact on the City Centre and District Centres, including St Thomas, is considered to be negligible.

Officers are satisfied that the sequential and impact tests have been passed in this case. However, a condition preventing the sub-division of the store (as extended) is considered necessary in accordance with Policy S2. Officers have also weighed the positive benefits of the scheme in the overall planning balance, including reuse of a vacant premises and job creation. It is estimated that the scheme will lead to the creation of 85 jobs (65 FTE).

In conclusion, the proposed extension to the retail warehouse to allow beneficial occupation by The Range is considered to be acceptable in principle. In addition, the inclusion of a 190 sq m cafe is considered acceptable as an ancillary use and subject to the proposed conditions to control its use.

2. Access and Impact on Local Highways

The vehicular access to the site will not be altered except for road marking improvements, which are supported by the Local Highway Authority. Access issues relating to delivery vehicles and the proposed smaller service yard are considered under application ref. 16/0993/03.

The proposal is expected to significantly increase pedestrian movement to the site. The Local Highway Authority requires pedestrian access improvements accordingly, including funding to upgrade the pedestrian crossing on Alphington Road north of the site entrance. These will be secured by s106 and condition.

The signalised junction on Alphington Road at the site access operates at capacity most of the day during the week and during weekend inter peak periods. There is often queuing on Sydney Road and the site access by vehicles wishing to join Alphington Road, and motorists sometimes need more than one signal cycle to get out.

The applicant has submitted a Transport Statement (TS) to assess the impact of the proposal on the junction. This is based on a net increase in retail floorspace of 434 sq m, as it takes into account the garden centre approved as part of the original planning permission. Whilst this is incorrect and not a true reflection of the existing situation, as it doesn't take into account the relocated garden centre or the proposed new garden centre, officers have reconsulted the Local Highway Authority who have no concerns.

Based on the TS submitted, the Local Highway Authority states that the information suggests there will be an increase in traffic to the site by 50% resulting in, on average, 1-1.5 more vehicles wishing to exit the site per signal cycle. This is expected to increase queues at the junction, but most of the detriment will be to motorists wishing to leave the retail park instead of those on Alphington Road. The Local Highway Authority does not consider that the impact will be significantly adverse to warrant refusal.

If the application is approved, a condition should be added to ensure that a Staff Travel Plan is prepared and implemented to promote the use of sustainable modes of travel.

3. Parking

The Transport Statement states there are circa 227 car parking spaces on the site including 12 disabled spaces. The plans show this number will be reduced to 223 spaces (12 disabled) in order to provide a footway next to the building to improve pedestrian access. The TS states this is sufficient based on an assessment concluding that the maximum parking accumulation of the car park will be 68 vehicles between 2pm and 3pm on Saturdays.

The plans don't include cycle parking and if the application is approved a condition should be added requiring this in accordance with the Sustainable Transport SPD.

4. Design and Impact on the Setting of the Conservation Area

The design of the extension has been revised since it was submitted originally to take account of officer comments. It now includes windows with deep reveals to provide an 'active' frontage facing the access road. Doors have been added providing the opportunity for additional entrances. The frontage will be clad in Rockpanel Chameleon, a high spec cladding material that changes colour from different angles. This will add some contemporary excitement to the building and the colours have been chosen to take into account the characteristic red brick of the conservation area, as well as the corporate identity of the applicant (red-gold-purple assortment). The remainder of the extension will be clad in light grey coloured panels, which has been chosen to minimise the impact on the neighbouring residential properties. These elevations will be screened from the conservation area by existing trees/housing. The design of the extension is now considered to be acceptable.

5. Impact on the Amenity of Neighbouring Properties

The application has been revised to include air conditioning plant behind the building, which has already been installed. Officers requested a Noise Impact Assessment, which concludes that the plant will have a significant impact on the neighbouring residential properties. Environmental Health requested the relocation of the plant or noise mitigation measures accordingly. The applicant intends to provide the latter and details have been requested by officers before the application is determined. An update will be provided at committee.

Officers consider the extension will not have an overbearing visual impact on the neighbouring residential properties, due to the lower height of the extension compared to the

existing building and separation distance from the dwellings. The dwellings have relatively long gardens with mature trees and shrubs. It's considered that the extension will not cause any adverse overshadowing.

6. Impact on Trees

The Arboricultural Impact Assessment states that the proposed development will not require the removal of any trees on or adjacent to the site. However, the development will be within the root protection areas of a number of high quality trees, including TPO trees on the corner of the access road and Alphington Road, and a group of grey elder within the car park of St Andrew's Church along the boundary. These trees are important as they will screen the side and rear elevations of the building from Alphington Road/the conservation area.

The report states that the trees are unlikely to be affected, however drainage and service plans are unknown at this stage and these would have an adverse impact on the trees if they are laid within the root protection areas. The report recommends tree protection fencing is installed to create a Construction Exclusion Zone. This can comprise the existing wall/fence, but must be supplemented by temporary fencing where the wall/fence has been removed, e.g. next to the TPO trees on the corner of the access road/Alphington Road. This requirement should be conditioned. The report includes other recommendations to protect the trees, which should also be conditioned. The Council's Arboricultural Officer has agreed these. Based on the report, a condition should also be added requiring details of any planned works within the root protection areas of the trees, so that they can be approved by the Council's Arboricultural Officer before they are carried out. Should any of the trees need to be removed as a result of accidental damage during the construction phase, suitable replacement tree planting will be necessary and this should also be a condition of planning permission.

7. Surface Water Drainage and Flood Risk

The site is in Flood Zone 3. Retail is classed as a 'less vulnerable' use in national guidance, which is acceptable in Flood Zone 3. The Flood Risk Assessment states that a sequential test is not necessary as the proposal is for an extension to an existing building. The Environment Agency has no objection, so the proposal is considered acceptable with regards to flood risk.

The Lead Local Flood Authority (DCC) has objected, due to a lack of information on how the proposed development will drain surface water. Policy CP12 (Flood Risk) requires all development to mitigate flood risk and utilise SUDS where feasible and practical. Therefore, a SUDS system should be prioritised. Officers have requested further details from the applicant and an update will be provided at committee.

8. Sustainable Construction and Energy Conservation

Policy CP15 requires development proposals to demonstrate how sustainable design and construction methods will be incorporated. The Design and Access Statement sets out the energy saving measures that will be installed:

- Gas heaters replaced by reverse cycle AC system (will also heat water in staff facilities).
- Automatic control system to ensure M&E services are used only when essential.
- LED light fittings.
- LED signage where appropriate.

Officers also encouraged the applicant to provide windows and rooflights in the extension to allow natural light penetration. The plans show rooflights will cover 15% of the roof.

Policy CP15 requires all non-domestic development to achieve BREEAM 'Excellent' from 2013. A condition should be added accordingly. Policy CP13 requires new development with a floorspace over 1,000 sq m to connect to an existing or proposed Decentralised Energy Network in the locality. However, this is not currently feasible in this location. Policy CP14 requires new development with a floorspace over 1,000 sq m to use decentralised and renewable or low carbon energy sources to cut CO2 emissions by the equivalent of at least 10% over the extant building regulations, unless this is not viable or feasible. A further condition should be added accordingly.

CIL/S106

The proposed development is CIL liable, as it includes additional out of city centre retail floorspace. The rate for permission granted in 2016 is £154.62 per sq m. The additional floorspace is 1,363 sq m, so the total liability is £210,747.06.

As the proposed development has commenced, the right to pay in instalments has been lost and the full amount is due. The CIL Liability Notice was issued to the applicant on 09.09.2016, together with a blank Assumption of Liability Notice and blank Commencement Notice. These have not been returned to the Council and the CIL liability has not been paid.

A S106 legal agreement is necessary to secure a £90,000 contribution to provide a staggered pedestrian crossing at the Alphington Road/Sydney Road junction. This is considered essential to ensure safe and suitable pedestrian access.

RECOMMENDATION

APPROVE subject to:

- 1) Submission of details of the relocation of the air conditioning plant or noise mitigation measures that are satisfactory to the Assistant Director of City Development in consultation with Environmental Health.**
- 2) Submission of surface water drainage scheme that is satisfactory to the Assistant Director of City Development in consultation with the Lead Local Flood Authority (Devon County Council).**
- 3) Completion of a s106 legal agreement to secure £90,000 highways contribution.**

(If the details above are not received within 1 month the application will be reported back to Committee)

With the following conditions (further conditions delegated to Assistant Director of City Development if Members/officers consider necessary):

1. Standard Time Limit – Full Planning Permission

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 comply with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended).

2. Approved Plans

The development hereby permitted shall be carried out in complete accordance with the approved plans listed below:

Reason: For the avoidance of doubt and to ensure a satisfactory completion of development.

Prior to commencement (further development)

3. Construction Method Statement

No development from the date of this decision 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 parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of securing hoarding, if appropriate, which shall be kept clear of graffiti and fly-posting.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- h) No burning on site during construction or site preparation works
- i) Measures to minimise noise 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.

The approved Statement shall be adhered to throughout the remaining construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the safety and convenience of highway users. These details are required pre-commencement as specified to ensure that building operations are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

4. Tree Protection Measures

No development from the date of this decision shall take place until fences have been erected and other protection measures put in place for the protection of trees to be retained on and adjacent to the site in accordance with the Arboricultural Report (First Ecology, September 2016) submitted with the application. The fences and other protection measures shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

Reason: To protect existing trees on or adjacent to the site in accordance with the Trees in Relation to Development SPD. These measures are required pre-commencement as specified to ensure that existing trees are not damaged by building operations.

5. Surface Water Drainage System Details

No development from the date of this decision shall take place until technical details of the surface water drainage scheme submitted with the application have been submitted to and approved in writing by the Local Planning Authority in consultation with Devon County Council as the Lead Local Flood Authority. These will include relevant drainage calculations and will demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land. The extension shall not be occupied or brought into use until the surface water drainage scheme has been completed in accordance with the approved details and it shall be continually maintained thereafter.

Reason: To manage water and flood risk in accordance with Policy CP12 of the Core Strategy, Policy EN4 of the Exeter Local Plan First Review and paragraph 103 of the NPPF. These details are required pre-commencement as specified to ensure that the surface water drainage scheme is constructed to an appropriate standard and will not lead to increased risk of flooding to surrounding buildings, roads and land.

6. Materials

Prior to the erection of the walls of the extension above damp proof course samples of the external building materials shall be submitted to and approved in writing by the Local Planning Authority. The extension shall be built from the materials approved.

Reason: In the interests of design and the character of the area in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review and paragraphs 58 of the NPPF. These details are required pre-commencement as specified to ensure that the extension is constructed to a high standard and from the materials approved.

7. BREEAM Design Stage Assessment

No development from the date of this decision shall take place until a BREEAM design stage assessment report for the extension is submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that the extension is constructed to achieve BREEAM 'Excellent' standards, unless this is demonstrated not to be viable or feasible to the satisfaction of the Local Planning Authority. In the event of the latter, the report will show how the extension will be constructed to achieve BREEAM standards as high as viable or feasible to the satisfaction of the Local Planning Authority. The extension shall be constructed in accordance with the approved report.

Reason: In the interests of sustainable construction in accordance with Policy CP15 of the Core Strategy and paragraphs 93-97 of the NPPF. These details are required pre-commencement as specified to ensure that the extension is constructed to meet the required standards.

8. Details to cut CO2 emissions by 10%, unless not viable or feasible

TBC

Prior to occupation

9. Road marking and pedestrian access improvements

Prior to the first occupation or use of the development hereby permitted, the road marking improvements and pedestrian access improvements shown on the approved plans shall be implemented in full.

Reason: In the interests of pedestrian safety in accordance with paragraph 32 of the NPPF.

Prior to installation/specific works

10. External lighting details

No external lighting shall be installed on the site or on the building unless details of the lighting have been submitted to and approved in writing by the Local Planning Authority. Thereafter external lighting shall be installed in accordance with the approved details.

Reason: In the interests of design and residential amenity in accordance with Policy CP17 of the Core Strategy, Policies DG1 and DG7 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

11. Extraction equipment details

No extraction equipment to treat and disperse emissions from cooking operations shall be installed on the site or on the building unless details of the extraction equipment have been submitted to and approved in writing by the Local Planning Authority. Thereafter extraction equipment shall be installed in accordance with the approved details.

Reason: In the interests of design and residential amenity in accordance with Policy CP17 of the Core Strategy, Policies DG1 and DG7 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

12. Details of works within tree root protection areas

Prior to any planned works within the root protection areas of any trees on or adjacent to the site, details of the works shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented as approved.

Reason: To ensure the health and longevity of the trees in the interests of design and amenity in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

13. Details of replacement tree planting if existing trees are damaged and need to be removed.

In the event that existing trees on or adjacent to the site are felled or damaged by construction activities associated with the development and need to be removed, replacement tree planting shall be provided by the developer in accordance with details that will be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in the first planting season following the first occupation or use of the development hereby permitted or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of design and amenity in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

Restrictive/Permanent

14. Restrict sale of goods (as per 16/0984/03)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), the extension to the retail warehouse shall not be used for the sale of any goods other than those in the following categories:

- (i) Do-It-Yourself goods and garden centre goods, including related building materials, tools and equipment;
- (ii) New kitchens and bathrooms;
- (iii) Carpets, wall and floor coverings;
- (iv) Lighting products;
- (v) Household furniture, furnishings and textiles;
- (vi) Office furniture and supplies;
- (vii) Household goods and kitchenware;
- (viii) Electrical goods;
- (ix) Motor vehicle and bicycle related goods;
- (x) Marine accessories and chandlery;
- (xi) Camping and associated leisure goods (not including clothing and/or footwear);
- (xii) Pet products; and
- (xiii) Hobbies, crafts and toys.

The following categories of goods shall be permitted to be sold as ancillary goods restricted to a maximum floor area of 50 sq m each:

- a. Non-fashion clothing and footwear; and
- b. Toiletries.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

15. Restrict size of café

The ancillary café hereby permitted shall be restricted to a maximum floor area of 190 sq m.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

16. Restrict independent operation of café

The ancillary café hereby permitted shall not be operated independently of the retail warehouse. In the event that the ancillary café use is ceased, the floor area occupied by it shall revert to restrictive retail use in accordance with condition 14.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

17. Restrict extent of food and drink sales in café

The ancillary café hereby permitted shall not be used for the sale of food and drink other than hot and cold drinks, sandwiches, snacks and light refreshments for consumption on the premises only.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

18. Prevent sub-division from existing retail warehouse

The extension to the retail warehouse hereby permitted shall not be sub-divided from the retail warehouse and shall be used by the same retailer with the same fascia that is occupying the retail warehouse at the same time.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

19. Prevent sub-division of extension

The extension to the retail warehouse hereby permitted shall not be sub-divided into more than one retail unit and shall not be used by more than one retailer with an individual fascia.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

20. Retention/maintenance of noise mitigation measures

TBC

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

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Agenda Item 9

ITEM NO. 9

COMMITTEE DATE:

31 OCTOBER 2016

APPLICATION NO:

16/0984/03

VARIATION OF CONDITION

APPLICANT:

Mr Cotter

CDS (Superstores International) Ltd

PROPOSAL:

Removal of Condition 3 regarding building's floor space limitation, variation of Condition 5 redefining goods to be sold from the premises and variation of Condition 8 to allow extended hours of opening to 9 PM Monday to Saturday of Planning Application 85/1023/01 allowed at appeal on 2 October 1986 (revised description).

LOCATION:

Former B & Q Store, 33, Alphington Road, Exeter, EX2

REGISTRATION DATE:

22/08/2016

EXPIRY DATE:

21/11/2016

HISTORY OF SITE

The existing retail warehouse was granted outline planning permission with conditions on 02.10.1986 by the Secretary of State following an appeal for non-determination within the appropriate period (ref. 85/1023/01) (appeal ref. T/APP/Y1110/A/85/040173/P6). The reserved matters were approved the following year on 18.03.1987 (ref. 86/1052/02).

Condition 3 of the outline permission restricted the gross external floor area of the building to a maximum of 40,000 sq ft (3,716 sq m) and garden centre to a maximum of 10,000 sq ft (929 sq m).

Condition 5 of the outline permission restricted the sale of goods from the premises to:

- Carpets
- Furniture
- Electrical goods
- Sanitary ware including bathrooms, kitchen and bedroom units
- Decorative products including ceramic tiles, wallpapers, paint and floor coverings
- Timber wall boards, packs of sand and cement, guttering and pipes, doors and other building materials and home improvement goods
- Tools and equipment
- Garden supplies and associated items
- Auto parts
- Sports goods
- Chandlery and marine accessories
- Hobbies and toys

Condition 8 of the outline permission restricted the time of retail sales to the hours of 9am to 8pm Mondays to Saturdays inclusive and 9am to 6pm on Sundays and Bank Holidays.

The additional relevant planning history is shown below:

88/0006/03 -	Part change of use to form tyre service depot for storage, distribution, fitting & repair of tyres, batteries	REF	15/03/1988
94/0371/03 -	Erection of non-food retail outlet including alteration to existing car park and entrance to B & Q building and relocation of garden centre	PER	07/07/1995
95/0517/03 -	Erection of service yard canopy	PER	31/08/1995
16/0872/03 -	Extension to retail warehouse of 1,363 sq m (GIA)	Pending	

to be used primarily for the sale of garden centre goods, poultry and pet products, and decorative items including housewares and gardenware (Use Class A1), with ancillary internal cafe (190 sq m), following demolition of wall/fence, and provision of ancillary air conditioning plant to the rear of the existing building (revised description).

16/0993/03 - Change of use of part of retail warehouse service yard to external garden centre (ancillary A1 use), insertion of glazed doors on Northeast elevation of warehouse and erection of 3M fence. Pending

DESCRIPTION OF SITE/PROPOSAL

The application site comprises the vacant retail warehouse (3,716 sq m GEA) formerly occupied by B&Q together with all associated land, including car park, service yard and garden centre in Alphington. It is bounded by the railway line to the north, allotments to the east, residential properties in Edwin Road and St Andrew's Church to the south, and Alphington Road, Aldi and Iceland to the west. The site is in Flood Zone 3. Prince's Square Conservation Area adjoins the site to the west, but there are no other above ground heritage assets within the immediate vicinity. There are TPO'd trees (TPO No. 537) to the west of the site fronting Alphington Road and the access to the car park. The site is in an out-of-centre location and is undesignated in the adopted Local Plan and Core Strategy.

The application has been submitted at the same time as an application to build an extension on the former garden centre and an application to change the use of part of the service yard to garden centre to allow beneficial occupation by The Range. The documents state that the store will become the company's primary retail outlet in the city, but the existing store (4,100 sq m gross) will be retained with a different retail offer. As extended, the retail warehouse will have a gross floor area of 5,079 sq m (4,146 sq m net sales).

This application relates to conditions added to the original planning permission for the retail warehouse (ref. 85/1023/01) (appeal ref. T/APP/Y1110/A/85/040173/P6). It proposes to remove condition 3 restricting the gross external floor area of the building to allow it to be extended. It also proposes to vary condition 5 to redefine the types of goods that can be sold from the premises and vary condition 8 to extend opening times by one hour to 9pm on Mondays to Saturdays inclusive (opening times will remain as 9am to 6pm on Sundays and Bank Holidays).

Condition 5 is proposed to be reworded as follows:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (Use Classes) Order 2005, the following goods and services shall be permitted to be sold from the retail warehouse as extended:

- DIY and/or garden goods and supplies including products for home improvement and repair including building material and home improvement goods, tools and equipment;
- Household furniture, furnishings and textiles;
- Kitchens, bathrooms, bedroom unit decorative products, household goods and kitchenware;
- Electrical goods;
- Carpets, wall and floor coverings;
- Automotive accessories, bicycles, marine accessories and chandlery;
- Leisure, camping and toy goods;
- Pet supplies;
- Office furniture and supplies;
- Hobbies and crafts.

Notwithstanding the limitation above the following additional and ancillary categories of goods shall be permitted to be sold from the retail warehouse limited to the floorspace areas specified below:

- (1) Non-fashion clothing and footwear up to 50 sq m.
- (2) Toiletries up to 50 sq m.

The additional goods listed (1)-(2) can only be sold by CDS (Superstores International) Ltd trading as The Range on an ancillary and/or incidental basis to the main goods permitted to be sold from the retail warehouse.”

Other conditions are proposed to control the use of the café.

The application was revised to extend opening times to 9pm on Mondays to Saturdays instead of Mondays to Fridays.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

- Design and Access and Heritage Impact Statement (MWA) (August 2016)
- Supporting Planning and Retail Statement (MWA) (August 2016)

REPRESENTATIONS

The application has been publicised twice. The second publicity period followed the revision to extend opening hours to 9pm on Mondays to Saturdays and runs to 27 October 2016. One representation has been received requesting conditions to provide landscape screening between the existing building and residential properties in Edwin Road and removal of bamboo and ground elder. Other representations have been received relating to the applications to build an extension to the retail warehouse and change the use of part of the service yard to garden centre. These representations are summarised in the relevant officer reports for those applications.

CONSULTATIONS

Devon County Council (Local Highway Authority): No objection. The proposed variation of conditions has been assessed in the Transport Statement and is not a concern on its own.

The Environment Agency: Refer to Standing Advice.

Network Rail: Comments awaited.

South West Water: No objection in principle, but public sewers would appear to potentially be affected.

Environmental Health (ECC): No objection to extend opening by 1 hour to 9pm on Mondays to Saturdays. If a noise nuisance arises from music/tannoy announcements within the building, this can be dealt with as environmental health matter.

PLANNING POLICIES/POLICY GUIDANCE

Government Guidance

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Core Strategy (Adopted February 2012)

Core Strategy Objectives

CP1 – Spatial Strategy
CP8 – Retail
CP12 – Flood Risk

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development
AP2 – Sequential Approach
S1 – Retail Proposals/Sequential Approach
S2 – Retail Warehouse Conditions
T1 – Hierarchy of Modes
EN4 – Flood Risk

Development Delivery Development Plan Document (Publication Version, July 2015)

DD1 – Sustainable Development
DD20 – Accessibility and Sustainable Movement
DD33 – Flood Risk

OBSERVATIONS

Variation of Condition 5 / Retail Policy Issues

This application will result in a new retail permission for the premises. Therefore the Council's retail policies and national guidance to ensure the vitality of town centres apply. The site is in an out-of-centre location. The applicant has submitted a sequential assessment and impact assessment accordingly. These take into account the proposed extension to the store. Officers agree that the only potential sequentially preferable site for the proposal is the Bus and Coach Station site. The BCS site has outline planning permission for a mix of uses, including up to 11,000 sq m of retail floorspace. A reserved matters application for the commercial element is expected shortly following a public exhibition by the developer in the summer.

The applicant accepts that the BCS site is available. However, the applicant considers that it is not suitable or viable for the proposed development. It cites the business model of The Range, primarily the requirement for retail units with large floor areas between 3,500 sq m and 7,500 sq m+. The proposed store will have a gross floor area of 5,079 sq m. Whilst there is scope to provide this on the BCS site under the outline permission, the indicative proposals show the retail floorspace split into a number of smaller units, the largest being c.2,400 sq m. The applicant argues this is too small to meet their requirements and it is clear that the BCS site is targeting 'high street' retailers.

Notwithstanding, the applicant states that it can sell the majority of goods it intends to sell from the existing premises under its extant permission. The existing retail warehouse has a gross floor area of 3,716 sq m. Whilst it operated as a DIY/garden centre for many years before closing earlier this year, the 1986 appeal decision permits it to sell a wider range of goods than a typical out-of-centre retail warehouse. The proposed variation of condition 5 will permit the same types of goods to be sold from the premises, as well as the following which, arguably, do not fall within the scope of the extant permission: household furnishings, textiles, household goods and kitchenware, leisure and camping goods, pet supplies and office furniture. The proposal also includes the ability to sell non-fashion clothing and footwear, and toiletries from up to 50 sq m each as ancillary goods.

The applicant has carried out an impact assessment of the proposal on the vitality and viability of the City Centre and District Centres. It argues that the majority of trade diversion will be from the existing store in Exeter, which it says will change format to have a different retail offer. Trade will also be diverted from existing retail warehouses in this part of Exeter.

The impact on the City Centre and District Centres, including St Thomas, is considered to be negligible.

Officers are satisfied that the sequential and impact tests have been passed in this case. However, a further condition preventing the sub-division of the store (as extended) is considered necessary in accordance with Policy S2. Officers have also weighed the positive benefits of the scheme in the overall planning balance, including reuse of a vacant premises and job creation. It is estimated that the scheme will lead to the creation of 85 jobs (65 FTE).

In conclusion, the proposed variation of condition 5 to allow beneficial occupation by The Range is considered to be acceptable, subject to some minor rewording.

Impact on Local Highways

The variation of condition 5 to permit the sale of a wider range of goods from the premises may attract more customers to the site. This includes pedestrian and vehicle movements. However, the Local Highway Authority does not consider this to be significant enough to have an adverse impact.

In addition, the Local Highway Authority does not consider that the traffic generated by the retail warehouse as extended will have a significant enough impact to refuse the extension application (see Officer Report for 16/0872/03). However, pedestrian access improvements are required and will be secured as part of this application.

Removal of Condition 3 to Allow Extension

The Secretary of State provided no reasons for the conditions imposed on the original planning permission for the retail warehouse, including the restriction on the overall amount of floorspace. The applicant states that it is not clear that condition 3 serves a useful planning purpose. The only useful purpose would appear to restrict the ability to carry out minor extensions to the store under permitted development rights, as large extensions will be subject to individual planning applications. Therefore, officers consider that condition 3 can be removed, subject to a new condition withdrawing permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any superseding legislation. This takes into account the nature of the surrounding uses. The restriction on the garden centre floorspace in condition 3 is also no longer considered necessary.

Extend Opening Hours to 9pm on Mondays to Saturdays

The current permitted opening hours are 9am to 8pm on Mondays to Saturdays and 9am to 6pm on Sundays and Bank Holidays. The proposal to extend opening hours by one hour in the evenings on Mondays to Saturdays has been discussed with environmental health and is considered to be acceptable. If a noise nuisance arises from music/tannoy announcements within the building, this can be dealt with as an environmental health matter.

Conditions

In addition to the removal/variation of conditions applied for, it is considered that the conditions need to be refreshed taking into account the current planning policy context. A list of conditions is included at the end of this report and includes a new landscaping scheme, as plantings have been removed from the original scheme, cycle parking provision and a Staff Travel Plan. A condition to approve details of any new external lighting installed is also necessary to ensure residential amenity is protected in the winter months, taking into account the slightly longer opening hours. Hours for deliveries should also be controlled in the interests of residential amenity.

The proposed development is not CIL liable as it will not result in any additional floorspace. A S106 legal agreement is not necessary for this application, but will be for application ref. 16/0872/03 (extension) to secure funding to upgrade the pedestrian crossing on Alphington Road adjacent to the site access.

RECOMMENDATION

APPROVE subject to the following conditions (further conditions delegated to Assistant Director of City Development if Members/Officers consider necessary):

- 1) Reserved matters details to accord with RM approval ref. 86/1052/02
The reserved matters details of access, layout, scale, appearance and landscaping shall accord with reserved matters approval ref. 86/1052/02, unless otherwise varied by this decision.

Reason: For the avoidance of doubt.

Prior to first reoccupation

- 2) Detailed Landscaping Scheme/Planting
Prior to the first occupation or use of the development hereby permitted following the date of this decision, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of soft landscaping, including that designed to screen and/or soften the appearance of the building from the adjoining residential properties in Edwin Road. It shall specify tree/plant species and methods of planting. All trees and plants in the approved Scheme shall be planted in the first planting season following the first occupation or use of the development hereby permitted following the date of this decision or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of design and residential amenity in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

- 3) Cycle Parking
Prior to the first occupation or use of the development hereby permitted following the date of this decision, details of cycle parking provision in accordance with the adopted Sustainable Transport SPD (March 2013) shall be submitted to and approved in writing by the Local Planning Authority. Cycle parking shall be provided on the site prior to the first occupation or use of the development hereby permitted following the date of this decision in accordance with the approved details.

Reason: To promote cycling as a sustainable mode of transport in accordance with Policy T3 of the Exeter Local Plan First Review and the Sustainable Transport SPD.

- 4) Staff Travel Plan
Prior to the first occupation or use of the development hereby permitted following the date of this decision, a Travel Plan (including recommendations and arrangements for monitoring and review) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the recommendations of the Travel Plan shall be implemented, monitored and reviewed in accordance with the approved document, or any amended document subsequently approved in writing by the Local Planning Authority.

Reason: To encourage travel by sustainable means in accordance with Policy T3 of the Exeter Local Plan First Review and the Sustainable Transport SPD.

Prior to installation

5) External Lighting

No external lighting shall be installed on the site or on the building following the date of this decision unless details of the lighting have been submitted to and approved in writing by the Local Planning Authority. Thereafter external lighting shall be installed in accordance with the approved details.

Reason: In the interests of design and residential amenity in accordance with Policy CP17 of the Core Strategy, Policies DG1 and DG7 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

Restrictive/Permanent

6) No pedestrian or vehicular access from Edwin Road

No pedestrian or vehicular access to the site shall be provided from Edwin Road.

Reason: To accord with the original decision and prevent disturbance to the residents of Edwin Road.

7) Restrict sale of goods

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), the retail warehouse to which this permission relates shall not be used for the sale of any goods other than those in the following categories:

- (i) Do-It-Yourself goods and garden centre goods, including related building materials, tools and equipment;
- (ii) New kitchens and bathrooms;
- (iii) Carpets, wall and floor coverings;
- (iv) Lighting products;
- (v) Household furniture, furnishings and textiles;
- (vi) Office furniture and supplies;
- (vii) Household goods and kitchenware;
- (viii) Electrical goods;
- (ix) Motor vehicle and bicycle related goods;
- (x) Marine accessories and chandlery;
- (xi) Camping and associated leisure goods (not including clothing and/or footwear);
- (xii) Pet products; and
- (xiii) Hobbies, crafts and toys.

The following categories of goods shall be permitted to be sold as ancillary goods restricted to a maximum floor area of 50 sq m each:

- a. Non-fashion clothing and footwear; and
- b. Toiletries.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

8) Prevent sub-division of the building

The retail warehouse shall not be sub-divided into more than one retail unit and shall not be used by more than one retailer with an individual fascia.

Reason: In the interests of protecting the viability and vitality of the centres in the catchment area of the proposal, including the Primary and Secondary Shopping Areas in Exeter City Centre and the District and Local Centres in the city, in accordance with Policy CP8 of the Core Strategy, Policies S1 and S2 of the Exeter Local Plan First Review, and section 2 of the NPPF.

9) Opening hours

Retail sales shall not be carried out on the site at any time outside the hours of 9.00 am to 9.00 pm on Mondays to Saturdays inclusive and the hours of 9.00 am to 6.00 pm on Sundays and Bank/Public Holidays.

Reason: To protect residential amenity in accordance with paragraph 17 of the NPPF.

10) Delivery hours

No vehicle deliveries to the retail warehouse nor loading or unloading of delivery vehicles on the site shall take place outside the hours of 7.00 am to 9.00 pm on Mondays to Fridays inclusive and the hours of 8.00 am to 1.00 pm on Saturdays. There shall be no vehicle deliveries to the retail warehouse nor loading or unloading of delivery vehicles on the site on Sundays or Bank/Public Holidays.

Reason: To protect residential amenity in accordance with paragraph 17 of the NPPF.

11) Parking spaces/access kept permanently available

The car parking spaces and access thereto in the car park of the retail warehouse shall be kept permanently available for car parking and access purposes at all times.

Reason: To ensure adequate off-street parking and access thereto is provided in the interests of highway safety and amenity.

12) Withdraw permitted development rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the retail warehouse shall not be extended without the prior grant of planning permission.

Reason: In the interests of design and residential amenity in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review, and paragraphs 17 and 58 of the NPPF.

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

Agenda Item 10

ITEM NO. 10

COMMITTEE DATE: 31 OCTOBER 2016

APPLICATION NO: 16/0993/03 FULL PLANNING PERMISSION
APPLICANT: Mr M Cotter
PROPOSAL: Change of use of part of retail warehouse service yard to external garden centre (ancillary A1 use), insertion of glazed doors on Northeast elevation of warehouse and erection of 3M fence.
LOCATION: Former B & Q Store, Alphington Road, Exeter, EX2
REGISTRATION DATE: 22/08/2016
EXPIRY DATE: 17/10/2016

HISTORY OF SITE

The existing retail warehouse was granted outline planning permission with conditions on 02.10.1986 by the Secretary of State following an appeal for non-determination within the appropriate period (ref. 85/1023/01) (appeal ref. T/APP/Y1110/A/85/040173/P6). The reserved matters were approved the following year on 18.03.1987 (ref. 86/1052/02).

Condition 3 of the outline permission restricted the gross external floor area of the building to a maximum of 40,000 sq ft (3,716 sq m) and garden centre to a maximum of 10,000 sq ft (929 sq m).

Condition 5 of the outline permission restricted the sale of goods from the premises to:

- Carpets
- Furniture
- Electrical goods
- Sanitary ware including bathrooms, kitchen and bedroom units
- Decorative products including ceramic tiles, wallpapers, paint and floor coverings
- Timber wall boards, packs of sand and cement, guttering and pipes, doors and other building materials and home improvement goods
- Tools and equipment
- Garden supplies and associated items
- Auto parts
- Sports goods
- Chandlery and marine accessories
- Hobbies and toys

Condition 8 of the outline permission restricted the time of retail sales to the hours of 9am to 8pm Mondays to Saturdays inclusive and 9am to 6pm on Sundays and Bank Holidays.

The additional relevant planning history is shown below:

88/0006/03 -	Part change of use to form tyre service depot for storage, distribution, fitting & repair of tyres, batteries	REF	15/03/1988
94/0371/03 -	Erection of non-food retail outlet including alteration to existing car park and entrance to B & Q building and relocation of garden centre	PER	07/07/1995
95/0517/03 -	Erection of service yard canopy	PER	31/08/1995
16/0872/03 -	Extension to retail warehouse of 1,363 sq m (GIA) to be used primarily for the sale of garden centre goods, poultry and pet products, and decorative items including housewares and gardenware (Use	Pending	

Class A1), with ancillary internal cafe (190 sq m), following demolition of wall/fence, and provision of ancillary air conditioning plant to the rear of the existing building (revised description).

16/0984/03 - Removal of Condition 3 regarding building's floor space limitation, variation of Condition 5 redefining goods to be sold from the premises and variation of Condition 8 to allow extended hours of opening to 9 PM Monday to Saturday of Planning Application 85/1023/02 allowed at appeal on 2 October 1986 (revised description). Pending

DESCRIPTION OF SITE/PROPOSAL

The application site comprises approximately half of the service yard of the vacant retail warehouse formerly occupied by B&Q in Alphington. It is bounded by part of the car park to the north, remaining service yard area to the east, retail warehouse to the south and main part of the car park to the west. The site is in Flood Zone 3. The site is in an out-of-centre location and is undesignated in the adopted Local Plan and Core Strategy.

The application has been submitted at the same time as an application to vary conditions of the original planning permission for the retail warehouse and an application to build an extension on the site of the former garden centre to allow beneficial occupation by The Range. The documents state that the store will become the company's primary retail outlet in the city, but the existing store (4,100 sq m gross) will be retained with a different retail offer. As extended, the retail warehouse will have a gross floor area of 5,079 sq m (4,146 sq m net sales).

This application proposes to change the use of part of the service yard of the retail warehouse to an external garden centre (418 sq m), as an ancillary use to the store. It also proposes to add glazed doors to the warehouse to provide customer access to the external garden centre and the erection of a 3m high fence to separate it from the remaining service yard area.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

- Design and Access Statement

REPRESENTATIONS

One representation has been received relating to this application requesting conditions to provide landscape screening between the existing building and residential properties in Edwin Road and removal of bamboo and ground elder. It is considered that this is not relevant to this application, but it is relevant to the application to vary the conditions of the original planning permission for the retail warehouse (ref. 16/0984/03). Other representations have been received relating to this application and the application to build an extension to the retail warehouse. These representations are summarised in the relevant officer reports for those applications.

CONSULTATIONS

Devon County Council (Local Highway Authority): No objection. Tracking drawings included in the Transport Statement show delivery lorries using the whole of the service yard as existing to turn. Tracking has not been submitted to show how lorries will manoeuvre onsite with the smaller service yard. Whilst this raises safety concerns, it is off the public highway and should be resolved by the developer.

The Environment Agency: No comments to make, as change of use from a 'less vulnerable use' to a 'less vulnerable use'.

Devon County Council (Lead Local Flood Authority): No additional impermeable areas, but not clear if the proposals (3m fence) will have an effect on the current drainage of this part of the site. This should be clarified.

Network Rail: No objection in principle. Provided detailed comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Environmental Health (ECC): Recommended Noise Impact Assessment for building services plant (to be assessed under application ref. 16/0872/03).

PLANNING POLICIES/POLICY GUIDANCE

Government Guidance

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Core Strategy (Adopted February 2012)

Core Strategy Objectives
CP1 – Spatial Strategy
CP8 – Retail
CP12 – Flood Risk

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development
AP2 – Sequential Approach
S1 – Retail Proposals/Sequential Approach
S2 – Retail Warehouse Conditions
T1 – Hierarchy of Modes
EN4 – Flood Risk

Development Delivery Development Plan Document (Publication Version, July 2015)

DD1 – Sustainable Development
DD20 – Accessibility and Sustainable Movement
DD33 – Flood Risk

OBSERVATIONS

The change of use of part of the existing service yard of the retail warehouse to an ancillary external garden centre is considered to be acceptable in principle. A garden centre formed part of the original planning permission for the retail warehouse, although permission was later granted to relocate it west of the building. This part of the site is the site of the proposed extension to the building, so will no longer be available for this purpose, and it will not be desirable to provide it on part of the car park due to the resultant loss in car parking spaces.

The remaining service yard area is sufficient for The Range and if a future operator of the premises requires a larger service yard, the 3m fence dividing it from the external garden centre could be removed and the larger area could be reinstated.

Officers requested tracking diagrams to show how delivery vehicles will access the site, turn and leave in forward gear to ensure there will be no danger to pedestrians, cyclists or other users of the car park, taking account of the smaller service yard area. Paragraph 32 of the

NPPF states that plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people, and this is considered relevant to the proposal. The tracking diagrams submitted show delivery vehicles still using the whole of the existing service yard area to turn and it's doubtful that the smaller service yard will have enough space to do this. The Local Highway Authority has raised safety concerns about this, but stopped short of objecting as it is off the public highway. They state this should be resolved by the developer.

Officers have requested further tracking details or a management scheme to ensure that deliveries can be carried out safely on the site. Provided details are submitted that are satisfactory and secured by condition, the proposed development is considered to be acceptable.

A condition is required to ensure that the garden centre is an ancillary use to the retail warehouse and only used for the display of plants and garden centre goods.

CIL/S106

The development is not CIL liable and a Section 106 legal agreement is not necessary.

RECOMMENDATION

APPROVE subject to:

- 1) Submission of tracking details or a management scheme to ensure that deliveries can be carried out safely on the site that is satisfactory to the Assistant Director of City Development.**

(If the details above are not received within 1 month the application will be reported back to committee.)

With the following conditions (further conditions delegated to Assistant Director of City Development if Members/officers consider necessary):

- 1) Standard Time Limit – Full Planning Permission**
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 comply with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended).
- 2) Approved Plans**
The development hereby permitted shall be carried out in complete accordance with the approved plans listed below:
Reason: For the avoidance of doubt and to ensure a satisfactory completion of development.
- 3) Implement delivery management scheme (if delivery vehicle turning is not possible)**
The vehicle delivery management scheme submitted with the application shall be adhered to at all times, unless the site reverts back to use as a storage yard for the retail warehouse and the 3 metre fence is removed.
Reason: In the interests of the safety of pedestrians, cyclists and other users of the car park in accordance with paragraph 32 of the NPPF.
- 4) Ancillary use and display of plants and garden centre goods only**
The external garden centre hereby permitted shall be used for the display of plants and garden centre goods only, as an ancillary use to the retail warehouse. In the event that the ancillary garden centre use is ceased, the floor area occupied by it shall revert back to a storage yard for the retail warehouse.

Reason: For the avoidance of doubt and in the interests of protecting the viability and vitality of the city centre and other centres in Exeter.

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

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ITEM NO. 11

COMMITTEE DATE: 31 OCTOBER 2016

APPLICATION NO: 16/0311/16 EXETER CITY COUNCIL REGULATION 3
APPLICANT: Mr I Todd
Exeter City Council (General)
PROPOSAL: Reconstruct dwelling along with 2 storey rear extension and front porch
LOCATION: 102 Merrivale Road, Exeter, EX4 1PW
REGISTRATION DATE: 07/03/2016
EXPIRY DATE: 02/05/2016

DESCRIPTION OF SITE/PROPOSAL

The application relates to an existing two storey, semi-detached dwelling house which is owned and let by Exeter City Council.

The proposal is for demolition of the original dwelling and reconstruction to similar plan and footprint, but with a two storey extension to the rear.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

Design and Access Statement - this explains that the existing property has been structurally condemned. The new property will comply with modern day standards and is more thermally efficient.

REPRESENTATIONS

Objections: 1.

Principal planning material considerations raised:

1. Loss of light as a consequence of the proposed rear extension.
2. Overlooking and loss of privacy.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework 2012

Exeter Local Development Framework Core Strategy 2012

CP3 – Housing development
CP5 – Meeting housing needs
CP15 – Sustainable design and construction
CP17 – Design and local distinctiveness

Exeter Local Plan First Review 1995-2011 Saved Policies

H1 – Housing land search sequence
H2 – Housing location priorities
H3 – Housing sites
DG1 – Objectives of urban design
DG2 – Energy conservation
DG4 – Residential layout and amenity

Exeter City Council Supplementary Planning Documents

Residential Design SPD 2010

Technical housing standards – nationally described space standard (March 2015)

OBSERVATIONS

This is an application under Regulation 3 of the Town and Country Planning General Regulations 1992, Statutory Instrument 1492 (SI 1492), for development by the local authority (Exeter City Council) for the redevelopment of an existing dwelling, through the proposed demolition of that dwelling and erection of a replacement dwelling. The current application is one of a series of applications to demolish and rebuild many of the Council's dwelling houses, and has been made as the property has been deemed structurally unsound. The proposal would slightly increase the footprint of the new building as compared to the existing through the inclusion of a two-storey rear extension. The proposal would also alter the internal arrangements to site the bathroom upstairs and create a downstairs toilet adjacent to the porch. The proposed dwelling would feature a larger kitchen/diner area than the existing and overall the new dwelling would have better insulation and be more energy efficient.

There would be no significant impacts on the street scene or upon visual amenity as the replacement dwelling would largely replicate the existing house. In terms of residential amenity whilst the proposed dwelling would slightly project beyond the existing rear building line it would not significantly impact on amenity. In terms of access and parking arrangements these would remain as per the existing dwelling.

The proposed development is exempt from the CIL charging scheme as it relates to development for the provision of social housing and the applicant has submitted the relevant completed CIL liability and CIL exemption forms.

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 on 25 April 2016 (*dwg. no. AP(0)30 Rev.A*) and on 1 July 2016 (*dwg. no. AP(0)28 Rev.A*) as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) No construction/demolition work shall take place outside the following times: 8am to 6pm (Mondays to Fridays) 8am to 1pm (Saturdays) nor at any time on Sundays, Bank or Public Holidays.
Reason: In the interests of residential 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



- location of works to be undertaken
- location and extent of site boundary

16/0311/16
 -7 MAR 2016



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Project
**Refurbishment of 17no.
 Laings Easiform Houses**
 Client
Exeter City Council

By Date By Ap Note

Drawing Title
**LOCATION PLAN
 102 MERRIVALE ROAD**

Project No.	Drawing No.	Rev.
150624	AP(0)28	

Scale Paper Size Filename
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Date	Drawn	Checked	Status
11/2/16	OJ	PS	PLANNING

Check all dimensions and levels on site.

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ITEM NO. 12

COMMITTEE DATE: 31 OCTOBER 2106

APPLICATION NO: 16/0313/16 EXETER CITY COUNCIL REGULATION 3

APPLICANT: Mr I Todd
Exeter City Council (General)

PROPOSAL: Reconstruct dwelling along with 2 storey rear extension and front porch

LOCATION: 2 Oak Road, Exeter, EX4 1QB

REGISTRATION DATE: 07/03/2016

EXPIRY DATE: 02/05/2016

HISTORY OF SITE

16/0313/16 - Reconstruct dwelling along with 2 storey rear extension and front porch

DESCRIPTION OF SITE/PROPOSAL

The application relates to an existing two storey, semi-detached dwelling house which is owned and let by Exeter City Council.

The proposal is for demolition of the original dwelling and reconstruction to similar plan and footprint, but with a two storey extension to the rear.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

Design and Access Statement - this explains that the existing property has been structurally condemned. The new property will comply with modern day standards and is more thermally efficient.

REPRESENTATIONS

Objections: 1.

Principal planning material considerations raised:

1. Loss of light as a consequence of the proposed rear extension.
2. Overlooking and loss of privacy.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework 2012

Exeter Local Development Framework Core Strategy 2012

CP3 – Housing development

CP5 – Meeting housing needs

CP15 – Sustainable design and construction

CP17 – Design and local distinctiveness

Exeter Local Plan First Review 1995-2011 Saved Policies

H1 – Housing land search sequence

H2 – Housing location priorities

H3 – Housing sites

DG1 – Objectives of urban design

DG2 – Energy conservation

DG4 – Residential layout and amenity

Technical housing standards – nationally described space standard (March 2015)

OBSERVATIONS

This is an application under Regulation 3 of the Town and Country Planning General Regulations 1992, Statutory Instrument 1492 (SI 1492), for development by the local authority (Exeter City Council) for the redevelopment of an existing dwelling, through the proposed demolition of that dwelling and erection of a replacement dwelling. The current application is one of a series of applications to demolish and rebuild many of the Council's dwelling houses and has been made as the property has been deemed structurally unsound. The proposal would slightly increase the footprint of the new building as compared to the existing through the inclusion of a two-storey rear extension. The proposal would also alter the internal arrangements to site the bathroom upstairs and create a downstairs toilet adjacent to the porch. The proposed dwelling would feature a larger kitchen/diner area than the existing and overall the new dwelling would have better insulation and be more energy efficient.

There would be no significant impacts on the street scene or upon visual amenity as the replacement dwelling would largely replicate the existing house. In terms of residential amenity whilst the proposed dwelling would slightly project beyond the existing rear building line it would not significantly impact on amenity. In terms of access and parking arrangements these would remain as per the existing dwelling.

The proposed development is exempt from the CIL charging scheme as it relates to development for the provision of social housing and the applicant has submitted the relevant completed CIL liability and CIL exemption forms.

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 on 25 April 2016 (*dwg. no(s). AP(0)51 Rev.A*) and on 1 July 2016 (*dwg. no. AP(0)49 Rev.A*), as modified by other conditions of this consent.
Reason: In order to ensure compliance with the approved drawings.
- 3) C75 - Construction/demolition hours

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



- location of works to be undertaken
- location and extent of site boundary



Rv. Date By Ap Note

Chartered Architects
Chartered Building Surveyors
Interior Designers
CDM Co-ordinators

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Project
**Refurbishment of 17no.
Laings Easiform Houses**

Client
Exeter City Council

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Drawing Title
**LOCATION PLAN
2 OAK ROAD**

Project No.	Drawing No.	Rev.
150624	AP(0)49	

Date	Drawn	Checked	Status
11/2/16	OJ	PS	PLANNING

Check all dimensions and levels on site.

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REPORT TO: PLANNING COMMITTEE
Date of Meeting: 31 October 2016
Report of: Assistant Director City Development
Title: Delegated Decisions

1 WHAT IS THE REPORT ABOUT

- 1.1 This report lists planning applications determined and applications that have been withdrawn between the date of finalising the agenda of the last Planning Committee and the date of finalising this agenda. Applications are listed by ward.

2 RECOMMENDATION

- 2.1 Members are requested to advise the Assistant City Development Manager Planning (Roger Clotworthy) or City Development Manager (Andy Robbins) of any questions on the schedule prior to the meeting of the Planning Committee.
- 2.2 Members note the report.

3 PLANNING APPLICATION CODES

- 3.1 The latter part of the application reference number indicates the following type of application:

01	Outline Planning Permission
02	Approval of Reserved Matters
03	Full Planning Permission
04	Works to Tree(s) with Preservation Order
05	Advertisement Consent
06	Works to Tree(s) in Conservation Area
07	Listed Building Consent
14	Demolition in Conservation Area
16	Exeter City Council Regulation 3
17	Lawfulness of Existing Use/Development
18	Certificate of Proposed Use/Development
21	Telecommunication Apparatus Determination
25	County Matter Application
26	Devon County Council Application
27	Modification and Discharge of Planning Obligation Regulations
37	Non Material Amendment
38	Extension to Extant Planning Consent
39	Extension - Prior Approval
40	Office to Dwelling - Prior Approval

- 3.2 The decision type uses the following codes

DTD	Declined To Determine
NLU	Was Not Lawful Use
PAN	Prior Approval Not Required
PAR	Prior Approval Required
PER	Permitted
REF	Refuse Planning Permission
RNO	Raise No Objection
ROB	Raise Objections
SPL	Split Decision
WDN	Withdrawn by Applicant
WLU	Was Lawful Use
WTD	Withdrawn - Appeal against non-determination

RICHARD SHORT
ASSISTANT DIRECTOR CITY DEVELOPMENT

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Application Number: 16/1171/04 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 22/09/2016 DEL
Location: Stone Lane Retail Park, Marsh Barton Road, Marsh Barton Trading Estate, Exeter, EX2 8LH
Proposal: T7 Crown lift to 3m over pavement
T10 Remove lowest branch over pavement
T13 Crown lift to 3m over pavement
T24 Prune branches under light
T29 Remove SE limbs under light
T42 Fell
T60 Pollard to 6m and remove eastern limb
T63 Reduce eastern side by 3-4m
T65 Reduce eastern side by 3-4m
T66 Reduce eastern side by 3-4m

Application Number: 16/1150/06 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 23/09/2016 DEL
Location: Laurel Cottage, 47 Ide Lane, Exeter, EX2 8UT
Proposal: D1-7 Damson Prune/reduce by 2m
t2 Smoke Bush Fell

COWICK

Application Number: 16/0461/16 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 13/10/2016 DEL
Location: 94 Newman Road, Exeter, EX4 1PJ
Proposal: Demolition and redevelopment of existing property to provide a new 3 bedroomed dwelling with two storey side extension

DURYARD

Application Number: 16/1268/37 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 17/10/2016 DEL
Location: 10 Curlew Way, Exeter, EX4 4SW
Proposal: Change the extension roof finish to natural slate. Install GRP roof on small link.

DURYARD & ST JAME

Application Number: 16/1053/05 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 17/10/2016 DEL
Location: 65-66 Sidwell Street, Exeter, EX4 6PH
Proposal: New Trekker fascia with trough light, non illuminated built up KFC letters, internally illuminated Colonel logo, new internally illuminated projecting sign.

Application Number: 15/0513/03 **Delegation Briefing:** 27/09/2016 0
Decision Type Refuse Planning Permission **Decision Date:** 07/10/2016 DEL
Location: 44 Rivermead Road, Exeter, EX2 4RL
Proposal: Ground floor rear extension

ST LOYES

Application Number: 16/1212/05 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 12/10/2016 DEL
Location: Unit 8 Rydon Retail Park, Rydon Lane, Exeter, EX2
Proposal: 1 fascia sign and 1 projecting sign

Application Number: 16/0858/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 03/10/2016 DEL
Location: Exeter Motorway Services Area, Sidmouth Road, Exeter, EX2 7HF
Proposal: Single storey extension to amenity building

Application Number: 16/1186/06 **Delegation Briefing:**
Decision Type Withdrawn by Applicant **Decision Date:** 05/10/2016 DEL
Location: 5 Van Buren Place, Russell Way, Exeter, EX2 7TJ
Proposal: Fell two trees

Application Number: 16/1154/04 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 23/09/2016 DEL
Location: 9 Headingley Close, Exeter, EX2 5UH
Proposal: T1 Ash Reduce by 3m and 1.5m at sides

ST THOMAS

Application Number: 16/0975/03 **Delegation Briefing:**
Decision Type Permitted **Decision Date:** 27/09/2016 DEL
Location: 75 Regent Street, Exeter, EX2 9EH
Proposal: Partial change of use of domestic outbuilding to hairdressing salon

REPORT TO: PLANNING COMMITTEE

Date of Meeting: 31 October 2016

Report of: Assistant Director City Development

Title: Appeals Report

Is this a Key Decision?

No

Is this an Executive or Council Function?

No

1. What is the report about?

- 1.1 The report provides Members with information on latest decisions received and new appeals since the last report.

2. Recommendation:

- 2.1 Members are asked to note the report.

3 Summary of Decisions received:

- 3.1 The following decision has been received since the last report:

Appeal ref: APP/Y111110/C/16/3146595

Site at East Yard, Ide Lane, Pocombe Bridge, Exeter. The Council's reference is ENF/15/0004.

The breach of planning control alleged in the notice was:

"A material change of use of the land without planning permission, namely:-

The change of use of the land from agricultural to a mixed use of agriculture and domestic."

The requirements of the notice were to:

1. Cease the use of the land for domestic purposes.
2. Permanently remove the static caravan with any mobile caravan(s).
3. Permanently remove all garden ornaments, the polythene tunnel together with any other domestic paraphernalia.

The period for compliance was 6 months.

The Inspector noted that the appellant's agent appeared to have misunderstood the appeal process, and had not submitted any reasons or argument to support the grounds of appeal. He also expressed concern that the Council's alleged use of the site as "agriculture and domestic" was vague and inaccurate. In his view the site is in a mixed use including industrial and commercial storage, the base for a vehicle recovery business, the stationing of a caravan, and a building in mixed residential and other use.

The Inspector concluded that the appellant and his agent have made such a mess of the appeal that he could have summarily dismissed it, without considering it in any detail, since no relevant facts or arguments have been put forward to support the appeal. However, as he considered that the Council's Enforcement Notice was also defective, it could not be upheld. Therefore a situation had been created which he described as 'omniflawed'. In his view the best outcome was to quash the Enforcement Notice so that all those involved could start again on a proper footing.

In order to quash the Enforcement Notice the Inspector had to allow the appeal, but he made it clear that this was only for legal reasons and does not mean that any development at the site is being authorised.

4. New Appeals:

4.1 One new appeal has been received:

Application Ref: 16/0562/01 – Pocombe Orchard, Pocombe Bridge.

The application was for one new dwelling.

Assistant Director City Development

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling the report:

Letters, application files and appeal documents referred to in report are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

Contact for enquiries
Democratic Services (Committees)
Room 2.3
01392 265275