

ITEM NO.**COMMITTEE DATE:****27 JUNE 2016****APPLICATION NO:**

15/0436/01

OUTLINE PLANNING PERMISSION

APPLICANT:

ADP&E Farmers

PROPOSAL:

Outline planning application for up to 123 houses and associated infrastructure, with all matters reserved except for access.

LOCATION:

Land adjoining the West of England School, Topsham Road, Exeter, EX2

REGISTRATION DATE:

16/04/2015

EXPIRY DATE:

31/05/2016

HISTORY OF SITE

Applications for the residential development of this site were dismissed on appeal in 1962 and 1967. A further application in 1976 was also refused for local plan, highway, landscape and drainage reasons.

An outline application (ref 96/0620/01) for the residential development of the site was refused in December 1996 for reasons that: the site was outside the urban limit; the site was within a valley park, there was no demonstrable need for the development since there was sufficient land for housing within the Local Plan; the prominence of the site in the landscape; and, highway reasons. A subsequent appeal against this decision was dismissed in September 1997 on the grounds that the proposal would conflict with the approved Devon County Structure Plan, the Exeter Local Plan First Alteration and the provisions of the then emerging Second Alteration. The Inspector concluded that the residential development of the site and the extension of the urban area across the open green land would significantly damage the existing and potential qualities of the park and the character and appearance of the area in direct conflict with the objectives of the development plan.

A further outline application (ref 01/1769/01) for residential was refused in May 2002 on the following grounds:-

The proposal is contrary to policies 1L, 5L, 9LS and 1DG of the Exeter Local Plan First Alteration, Alterations 12, 13 and 15 of the Exeter Local Plan Second Alteration, policies H1, H2, L1, LS1 and LS6 of the Exeter Local Plan First Review Deposit Draft, policies H1, H4, and C17 of the Devon Structure Plan First Review and the DETR Planning Policy Guidance Note No.3, because:

- (a) it would result in development within an area of countryside identified as part of the Ludwell Valley Park where it is aimed to keep such areas open in the interests of visual amenity and to provide casual recreation; and*
- (b) there is no demonstrable need for the development as sufficient land has been provided for on previously-developed sites and through urban extensions, in accordance with the search sequence set out in PPG3, to meet immediate and longer term housing requirements; and*
- (c) it would give rise to prominent development adversely affecting the character and appearance of the Ludwell Valley Park and the surrounding area including important views of surrounding countryside; and*
- (d) it would harm, directly or indirectly, a protected wildlife species.*

Following the refusal of planning permission an appeal was lodged and subsequently recommended to the Secretary of State that it be dismissed in November 2003. The Appeal Inspector concluded in his report to the Secretary of State that:-

'The appeal proposal would cause significant harm to the character and appearance of the area and to casual recreation within the Ludwell Valley Park. It would also be likely to result in material harm to the habitat of a specially protected species. These harmful effects would

not be overcome by any of the suggested conditions or by the planning obligations contained in the appellant's Unilateral Undertaking. The resultant conflicts with development plan policy would not be outweighed by the contribution which the proposal would make to the realisation of other development plan objectives, particularly in respect of housing provision and transportation. Nor would these conflicts be outweighed by other material considerations, including emerging development plan policies, national and regional planning policy guidance, and the wider benefits arising from the proposal and its associated planning obligations'.

Subsequently in January 2004 the Secretary of State agreed with the Inspector's conclusion stating that:-

'...the application is a departure from the adopted development plan as the site is part of Ludwell Valley Park and the proposal would be contrary to development plan policies on the protection of landscape character, recreational open space and the habitat of a protected species. He also concludes that there is no need for the development at this time to meet housing targets. While the proposal would provide greater choice of housing land in an accessible and sustainable location as well as other material benefits to the local community, the Secretary of State does not consider that these benefits are sufficient to outweigh the potential harm to the habitat of the cirl bunting and the enjoyment of people using the remaining areas of the Park. He concludes that there are no other material considerations of sufficient weight as to indicate that he should determine the application other than in accordance with the development plan'.

DESCRIPTION OF SITE/PROPOSAL

The site comprises an area of land of 6.73 hectares in total comprising an open field bounded to the south west of the site by the West of England School and College which has access off Topsham Road. The site is an undulating grass field with its highest part located within the north western section near to existing residential properties in Tollards Road and Wendover Way. The field falls away towards the south east which forms its boundary with Rydon Lane (A379). A row of semi mature trees are located adjacent to Rydon Lane separated from the road by a foot and cycle path. The north eastern boundary of the site is defined by an established tree and hedgerow with an unimproved area of grassland beyond which lies adjacent to the office buildings within Pynes Hill Business Park.

The site is located within the Ludwell Valley Park and is designated as an area of Landscaping Setting. The Park is designated in the Exeter Local Plan First Review as a Site of Nature Conservation Importance, although Devon Biodiversity Records Centre representatives concluded in July 2014 that the site no longer qualifies as a County Wildlife Site and consequently the site's status will be removed when the development plan is reviewed.

The application seeks to develop the site for a maximum of 123 dwellings with associated infrastructure. The application is for all matters reserved except for access which is proposed from Topsham Road using an improved existing vehicular and pedestrian access alongside the West of England School and College and linking with an existing spur off Wendover Way which joins Topsham Road via Tollards Road. The application is accompanied by an Illustrative Masterplan and a Landscape and Visual Appraisal to inform the intended development area/open space.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The applicant has submitted the following consultant's reports to support their case:-

Planning Statement

Illustrative Masterplan and Design and Access Statement

Landscape and Visual Appraisal

Statement of Community Involvement

Transport Assessment and Travel Plan

Ecological Assessment
Archaeological and Heritage Assessment
Flood Risk Assessment
Foul Sewerage Capacity Assessment
Ground Contamination Report
Noise Assessment
Acoustic Assessment

REPRESENTATIONS

360 letters/emails of objection have been received. Principal material planning issues raised:-

1. Development would destroy part of the Ludwell Valley Park which is important for wildlife and informal recreation/public open space;
2. Wholly inappropriate to build within a Valley Park;
3. Overdevelopment of the Countess Wear area;
4. Loss of open countryside/views across the site;
5. Loss of green buffer between built up area and open spaces;
6. Serious impact on existing wildlife in the area, notably curlew buntings/ badgers/ dormice/ foxes;
7. Existing wildlife on the site should continue to be protected;
8. Lead to increased pressure for further development within the Valley Park;
9. Adversely affect the existing ancient hedgerow along the boundary of the site alongside the Valley Park;
10. Detrimentally affect the biodiversity of the area and rare/protected species;
11. SHLAA report 2015 clearly states that site unsuitable for housing;
12. Contrary to Core Strategy Policies;
13. Site has been rejected for housing several times previously with appeal inspectors stating that '*...development would leave an isolated tongue of land between the site and Woodwater Park offices that would lack the extensive rural character of the Valley Park as a whole*'
14. Inspector at 2003 Local Plan Inquiry concluded that '*...the site should be remain park of the Valley Park because of its general prominence from Rydon Lane and its consequent role in forging a landscape link between the actively used parts of the Valley Park and the wider area*'
15. City Council should continue to refuse planning application on this site, as there has been no change in policy circumstances still these decisions were made;
16. Applicant's Planning Statement is out of date referring to the 2013 SHLAA and not the 2015 SHLAA;
17. Increase traffic in the area particularly along the already busy Topsham Road;
18. Potential for increased parking pressures on the existing roads due to insufficient parking within the site once developed;
19. Transport assessment misrepresentative and does not reflect the considerable traffic that already exists in the area;
20. Existing roads (Tollards Road, Southbrook Road and Wendover Way) too narrow/unsuitable to accommodate proposed increased traffic levels;
21. Too many vehicles using these roads already;
22. Inevitably lead to greater congestion at the Tollards Road/Topsham Road junction which already suffers from queuing;
23. Potential for gridlock in the area;
24. Greater risk to pedestrians due to the increase traffic to area, particularly dangerous to pupils of the local schools in the area;
25. Blind corners within Tollards Road and Southbrook Road will become more dangerous because of the increased traffic use;
26. Increased traffic congestion will prevent emergency vehicles accessing the estate;
27. Dangerous for pedestrians/cyclists along Wendover Way as new access road crosses this route;
28. Air pollution will increase particularly in an area which already has a high level of pollutants;

29. Detrimental to air quality in the area;
30. Air quality report is inaccurate and out of date;
31. No need for additional houses in the city as there are already too many;
32. Brownfield sites should be developed before greenfield sites;
33. Cranbrook/Newcourt/Rydons has already provided enough homes for the area;
34. Area cannot take more development given the future arrival of IKEA;
35. Inadequate local infrastructure such as lack of schools, hospitals, doctors and capacity of existing sewage system to accommodate the increased number of new residents;
36. Loss of privacy/overlooking due to future housing backing onto properties in Tollards Road/Wendover Way;
37. Loss of peace and quiet of the area;
38. Housing density indicated would be too high for the area;
39. Potential for flooding particularly onto Topsham Road due to the slope of the site;
40. Existing infrastructure in the area will not take further development, such as the existing culvert under Tollards Road and Southbrook Road
41. Adverse impact on existing archaeological features present within the site.

CONSULTATIONS

The County Head of Planning, Transportation and Environment views awaited

Highways England raises no objection commenting that it has reviewed the submitted documents in line with the guidance contained within Dept of Transport Circular 02/2013 'The Strategic Road Network and the Delivery of Sustainable Development' and with the DCLG National Planning Policy Framework. The trip rates and distribution set out in the Transport Assessment are the same as those considered as appropriate at the scoping stage. Highways England is therefore satisfied that the expected proportion of trips routing via M5 junction 30 will be very low and that the impact on the Strategic Road Network will not be severe.

Environmental Health officer raises no objection subject to suitable condition in respect of the need for a Construction and Environment Management Plan (CEMP), a full investigation in terms of contamination of the land and remediation works where necessary, investigation of risks posed by unexploded ordnance together with any future works necessary and the need for a scheme for the protection of the proposed development from ambient noise.

South West Water raise no objection.

Natural England comment that the proposal is unlikely to have a significant effect on a European site and can therefore be screened out from any requirement for further assessment. It is considered that CIL will secure financial contributions to deliver strategic mitigation measures to avoid impacts on European sites as set out in the 'South East Devon European Sites Mitigation Strategy (Footprint Ecology 2013). Therefore Natural England advises that a separate Habitat Regulations Assessment will be not required. NE provide further comment that in response to the Draft Development DPD document they objected to the site being included as an allocation since it was a County Wildlife Site, part of Ludwell Valley Park and an important component of the Green Infrastructure of the city, as identified in the '*Green Infrastructure Strategy Phase II - Exeter Area and East Devon Growth Point (2009)*'. The CWS boundary has since been revised to exclude this area but the Valley Park designation and its importance to the overall green infrastructure strategy remains. Furthermore, in the *South East Devon European Sites Mitigation Strategy* the authority has identified enhancements to the Exe Riverside and Ludwell Valley Parks as necessary to provide 'Suitable Alternative Natural Greenspace (SANGS) as mitigation for recreational impacts. Before granting any permission for this site the authority must ensure that this would not compromise the ability to deliver this proposed mitigation.

RSPB comments that a record has been received from a reliable source of two cirl buntings seen and heard on 26, 27 and 29 April 2016 at Ludwell Valley Park approx. 400 metres north

of the application site. This confirms that curlew buntings are still present at Ludwell Valley and are close enough that birds could reasonably be expected to use any suitable habitat at the application site.

Devon and Cornwall Police raises no objection to the proposal so long as the indicative masterplan is followed at the reserved matters stage.

Housing Development Officer comments that 35% of the total dwelling must be affordable in line with the Affordable Housing SPD, which for a 123 dwellings would be 43 with a financial contribution needed for the remaining 0.05. In accordance with the Affordable Housing SPD at least 70% of the affordable units are required to be social rent (30 units) the remainder to be intermediate affordable housing (13 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.

Heritage Officer comments that significant remains have been confirmed on site in the form of a prehistoric Bronze Age enclosure within it and an early parish boundaries on its NE boundary. However neither form constraints on the principle or layout of the development, as the enclosure has already been heavily damaged by ploughing and the latter can continue to exist as the boundary to the site. It is therefore recommended that an archaeological condition is attached to scheme.

Barn Owl Trust comments that the site appears to provide suitable foraging opportunities for barn owls and therefore recommend that the proposed public open space in the south east section of the proposed development should include some rough grassland foraging habitat to be created and maintained.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance: National Planning Policy Framework:-

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

National Planning Policy Guidance

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 both plan-making and decision-taking...*

For decision-takers 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.*'

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
- CP19 - Strategic Allocations

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
- L1 - Valley Parks
- T1 - Hierarchy of Modes
- T2 - Accessibility Criteria
- T3 - Encouraging Use of Sustainable Modes
- T5 - Cycle Route Networks
- T10 - Car Parking Standards
- C5 - Archaeology
- LS1 - Landscape Setting
- LS4 - Local Nature Conservation Designation
- EN2 - Contaminated Land
- EN3 - Air and Water Quality
- 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 Areas
- 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:-

Affordable Housing
Archaeology and Development
Planning Obligations
Public Open Space
Residential Design Guide
Trees and Development

Other Relevant Planning Documents:-

SHLAA 2015
Green Infrastructure Strategy Phase II - Exeter Area and East Devon Growth Point (2009)
Riverside and Ludwell Valley Parks Masterplan 2016-2016

OBSERVATIONS

This site has been the subject of several applications and appeal decisions for residential development as highlighted in the history of the site section. The substantial amount of correspondence from local residents shows the strength of feeling regarding the site's development and the comments made indicate that residents are well informed of its planning history. It is clear that residents feel passionate about the potential loss of open land close to their homes and many have expressed surprise as to why the applicant has been continually allowed to submitted applications on this site. The submission of repeated applications on the same site is an applicant's prerogative and in most situations cannot be resisted by a local planning authority. However the last application was made in 2001 with a judgement made by the Secretary of State in 2004. Consequently how planning applications are determined has significantly changed since this time, particularly with the introduction of the National Planning Policy Framework (NPPF) in 2012, which at its heart has the presumption in favour of sustainable development. Whilst the NPPF does not promote development regardless of the potential adverse impact it may have on an area, it does have a bearing on how planning applications need to be assessed, as has been highlighted by the recently allowed appeal decisions for residential development at Home Farm and Exeter Road, Topsham.

Implications of Exeter Road Topsham appeal decision

Before considering the merits of this application it is important to understand the implications of the recently allowed 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 the relevant policies for the supply of housing should not be considered up to date, if the local planning authority cannot demonstrate a five year housing supply. In practice this appeal decision, which is consistent with the appeal allowed at Home Farm, Pinhoe affects how the Council deals with applications for major housing developments. However before highlighting these changes, it is important to remember that this appeal decision does not override planning law which requires applications for planning

permission to be determined in accordance with the development plan unless material considerations indicate otherwise, as stated in NPPF paragraph 11.

The impact of the lack of a 5 year housing supply changes the emphasis of NPPF paragraph 14 as a material planning consideration. Paragraph 14 states that where policies are out of date (due to the lack of a five year housing land supply) planning permission should be granted unless '*...any consequent adverse impact of doing so would significantly and demonstrably outweigh the benefit, when assessed against policies in the Framework taken as a whole, or specific policies in the Framework indicates that the development should be restricted*'. Whilst the lack of a 5 year housing supply effectively labels The Council's development plan housing supply policies 'out of date', they are not irrelevant to the determination of the planning application and it is still for the local planning authority to determine what weight is attached. The wording of NPPF paragraph 14 is however important as it requires, in this instance, a residential schemes to have a significantly and demonstrable adverse impact for it to be refused. In effect, the evidence of adverse harm needs to be greater than has been previously required to outweigh the positive benefit of additional homes being provided to meet the identified deficiency in housing numbers in the city.

Consequently in practice it will be more difficult to refuse housing schemes unless clear evidence can be provided by the local planning authority that the development would cause a significant and demonstrable adverse impact. It is important to acknowledge that the existence of a development plan policy, in this instance, Local Plan policies L1 and LS1 which aims to protect the Valley Park and areas of landscape setting cannot be wholly relied on to resist development on this site, since these policies are relevant policies for the supply of housing and can no longer be considered up to date. However a balanced approach is still needed when assessing planning applications which considers the development plan policies and relevant other material considerations. The remainder of the report will seek to consider these matters.

Strategic Housing Land Availability Assessment (SHLAA)

Local residents refer to the finding of the 2015 SHLAA which concluded that the site is unsuitable for development and use this to suggest the development should be resisted. The SHLAA is an evidence base document compiled for plan-making purpose that cannot allocate a site or grant it planning permission. However, its findings could be considered a material consideration in determining this planning application. Whilst both the 2015 SHLAA and the Revised 2015 SHLAA concluded that the site is unsuitable for development, the 2013 SHLAA concluded that part of the site was suitable for development. This finding was made at a time when Exeter's 5 year housing land supply was considered marginal and it appeared that the Core Strategy's target to deliver at least 12,000 dwellings over the plan period would otherwise not be achieved. The approach taken by the 2013 SHLAA was in accordance with the National Planning Practice Guidance (NPPG) which is clear that in order to meet housing targets, it may be necessary to change assumptions on the development potential of particular sites, including physical and policy constraints. As a result of the recent appeal decision the Council's housing supply has been found to be deficient and consequently the conclusions contained within the SHLAA will need to be re-assessed. It could be argued that in the current circumstances the outcome of this re-assessment (which is yet to be undertaken) is more likely to reflect the conclusions of the earlier 2013 SHLAA. However, it is important to re-emphasise that the SHLAA neither allocates nor grants planning permission and represents one of a number of material planning considerations.

Sustainable Location

NPPF paragraph 14 states that at its heart is the presumption in favour of sustainable development. 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. Indeed in the previous appeal the Secretary of State stated that the site is '*...in an accessible and sustainable location as well*

as other material benefits to the local community...' The application proposes a similar number of dwellings to the Exeter Road, Topsham appeal (up to 123 units against the 107 units at the Topsham appeal). The Inquiry inspector commented that the number of units proposed for the Exeter Road appeal '*... would be of very considerable importance in delivering housing in the context of the serious housing shortfall...*' Accordingly given the similarity in number of homes proposed for the West of England School site, the development can not only be considered sustainable but significant in addressing the identified housing supply deficit. The applicant's planning statement also indicates that the scheme includes a 35% provision of affordable housing. Accordingly these factors represents material planning considerations within the overall assessment of this application.

Landscape Assessment

An important material consideration is the impact of the development on the landscape setting and the Valley Park. Previously assessments have concluded that development of the site would damage the landscape character and appearance of the Valley Park and these views have been supported by an appeal Inspector and the Secretary of State. The applicants have submitted a Visual and Landscape Assessment to support their scheme which concludes that '*...development on this site will not have any substantial effects upon landscape resources and visual amenity within the local or wider area, including the strategically important Ludwell Valley Park...*' Notwithstanding the conclusion reached in the applicant's landscape assessment it is inevitable that housing development of this scale will have an impact on the openness of the site located within a Valley Park. Whilst the site's context has changed with further development in the area and to the management regime of the site, there remains an adverse landscape impact. However as previously stated the consequence of out of date policies for the delivery of housing means that there is a need to demonstrate significant adverse impact of the proposed residential scheme to override the benefit of increased housing provision for the City. However this is not to say that the landscape qualities of the site are now rendered unimportant; they still represent a material consideration in the determination of this planning application.

Green Infrastructure

The Core Strategy Policy CP16 recognises the importance of improvements to green infrastructure as part of new development within the City and in the context of this site, the Newcourt area. The applicants have acknowledged the importance of the site's role as part of the City's Green Infrastructure Network and have stated that the site '*... will be significantly enhanced as a result of introducing public access and improving connectivity between the site and surrounding areas and providing significant new areas of public open space, planting and other landscape and ecological enhancement measures within the site*'. The creation of public access through the site and into the Valley Park on land which is currently in private ownership is to be welcomed. In addition, the potential for improvements to and from Newcourt across Rydon Lane is consistent with the objectives of Policy CP16 and the Green Infrastructure Strategy Phase II Plan. The Sustainable Movement Network and the Biodiversity Network opportunities (identified in the Newcourt Area Framework) could still be delivered alongside the proposed development. However further clarification has been requested from the applicant as to what measures for green infrastructure improvements are proposed to enable a detailed assessment as to the material benefit this scheme would bring.

Valley Park and SANGS

Whilst the site lies within the Ludwell Valley Park there is currently no public access onto or through the site. Consequently the development of the site would not impact on the City Council's ability to deliver Ludwell Valley Park as a SANGS or have implications for the overall objectives of the Riverside and Ludwell Valley Park Masterplan. The applicant's submitted green infrastructure framework plan indicates areas which are important in landscape terms and it is therefore considered appropriate for a condition to be imposed which seeks to maintain these areas as public open space in the future. The site will also

contribute to habitat mitigation through the payment of Community Infrastructure Levy and as previously stated green infrastructure improvements in terms of access to and from the Newcourt area to the Ludwell Valley Park would have the benefit of relieving public pressure on areas such as the Exe Estuary, a European protected site.

Cirl Buntings

The site was previously designated as a County Wildlife Site (CWS) due to the presence of cirl buntings. Previous applications have been refused on the basis that the development would harm directly or indirectly this protected species and this approach has been supported at appeal. However following consideration by the Devon Biodiversity Records Centre in 2014 it was agreed to de-designate the site as a CWS, as it no longer met the selection criteria, due to the absence of cirl buntings. However a recent letter from the RSPB has stated that cirl buntings have been seen on three occasions in April 2016 approximately 400 metres from the site in Ludwell Valley Park. However it should be noted that to meet the CWS criteria 15 or more wintering birds are required to be recorded at the site and a minimum of 4 breeding pairs. In addition, the fact that the site is improved grassland rather than arable means that it is unlikely to provide suitable habitat for cirl bunting. Notwithstanding these comments the applicant has been requested to update their cirl bunting survey and given the importance of this issue as highlighted by the previous appeal decisions, the application cannot be determined until this issue is resolved.

Highway Issues

Local residents have expressed serious concerns regarding the potential for the development to increase traffic congestion and safety within the area and onto Topsham Road, which would be exacerbated by the existing road layout around Tollards Road and Southbrook Road which contain several 'blind corners'. The Highway officer's report is awaited but it is important to note that the previous application did not contain a refusal reason relating to highway matters and consequently it is considered that subject to suitable conditions the application would be acceptable in highway terms.

Other Issues

The objections raise additional issues regarding the impact of the development on air pollution, flooding, pressure on local infrastructure eg schools, health provision, sewage system, wildlife and archaeology. It is considered that the various reports and consultation responses have satisfactorily address these comments and concerns.

Conclusion

A balanced judgement has to be made between the provision of new housing on this site to meet an identified shortfall in the city against the loss of part of the Valley Park and its value to the open character of the area. The benefits of the application for up 123 houses including the provision of 35% affordable homes, greater public access within and to the adjacent Valley Park and through improved green infrastructure in the area are significant material considerations that weigh in the application's favour. This has be balanced against the loss of an area of land in the Valley Park which contributes to the open character. Given the previous historic appeal decisions of this site and the more recent ones at Home Farm and Exeter Road the assessment of the relevant merits and adverse impact of this application are finely balanced.

The Exeter Road Inspector's decision on the City's lack of 5 year housing supply is a significant factor in how the Council assesses future planning application for residential development. Whilst the decision does not change status of the adopted development plan, as the starting point against which the application needs to be assessed, it does mean that a greater level of evidence is needed to prove that the harm created by the development is significant and demonstrable. The Exeter Road Inspector was very clear in his conclusion

that '*... the circumstances of a significant housing shortfall, the need to boost the supply, are very important material considerations which significantly outweigh the conflict with the development plan...*'. This decision represents a clear indicator as to how Inspectors will interpret the NPPF and ultimately how residential development schemes will be judged in the future. Consequently it is considered that the benefits of housing supply for the City, in the light of the Topsham Inspector's comments, are of fundamental importance and on balance favour approval of the application. However given the recognised landscape value of this site and its contribution to the Valley Park, it is important that the green infrastructure improvement to be offered by the applicant are significant and achieve the necessary integration of the development site into the area. In particular, the proposed improved pedestrian accessibility to and from the Newcourt area to Ludwell Valley Park would represent a significant addition to meeting the green infrastructure objectives of the area. Accordingly whilst it is considered that, on balance, planning permission should be granted given the impact it will have on the area, a clear understanding of the applicant's green infrastructure improvements are needed. Consequently subject to further details being submitted in respect of green infrastructure improvements the application should be approved.

RECOMMENDATION

Subject to the receipt of comments from the County Head of Planning, Transportation and Environment; clarification by the applicant of the specific nature of the green infrastructure measures proposed; submission of a revised curtilage survey that satisfactorily demonstrates that the development will not affect their habitat and the completion of a Section 106 Agreement in respect of affordable housing delegated authority be given to the Assistant Director of City Development in consultation with the Chair of Planning Committee to **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 the approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of the permission.
Reason: To ensure compliance with section 91 - 93 of the Town and Country Planning Act 1990.
- 3) The development hereby approved shall begin no later than 2 years from the date of approval of the last of the reserved matters to be approved...
Reason: To ensure compliance with section 91 - 92 of the Town and Country Planning Act 1990.
- 4) Notwithstanding the those matters reserved for later approval the development hereby permitted the scheme shall adhere to development areas identified as white with the Green Infrastructure Framework plan dated 16 April 2015 (dwg no. 3887_203) unless otherwise agreed in writing by the Local Planning Authority.
Reason: To maintain the character and appearance of the area.
- 5) Construction work shall not take place outside the following times: 0800hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours Saturdays and shall not take place at any time on Sundays, Bank and Public Holidays.
Reason: In the interest of residential amenity.
- 6) A Construction Environmental Management Plans (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, 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) C70 - Contaminated Land
- 8) C57 - Archaeological Recording
- 9) Prior to the occupation of the development, details of 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 accordance with the approved plan.
Reason: To enhance the biodiversity quality of the site.
- 10) No development shall take place on site until an investigation has taken place to determine the risk posed by unexploded ordnances and the results, together with any further works necessary, have been agreed in writing by the Local Planning Authority. The approved works shall be implemented in full and a completion report shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development.
Reason: In the interest of residential amenities.
- 11) Prior to commencement of the development, the applicant shall submit a scheme for protecting the proposed development from ambient noise. This shall be submitted to and approved by the Local Planning Authority before development commences. All the works that form part of the scheme shall be completed before any of the permitted development is occupied.
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