

ITEM NO. 5**COMMITTEE DATE:** 03/10/2016**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**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 to refuse at Planning Committee in June 2016 for the following reason:-

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 time scale. 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 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 a approx. 4 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 a 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 is 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 suggest 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 T.A 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 re-join 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 Councils 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 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 4x '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 4x '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, pg 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 miss-leading. 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 miss-use 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 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 recently 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 overlying 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 5 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 5 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 judgment 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, if required in the area. 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 cooperation 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 as stated within Committee report. The existing pitches do 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 and the replacement facilities are not as conveniently located for local users. Whilst the Countess Wear Dynamos have stated that they are supportive of the proposed provision, this does not take account of 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. There is also 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. Consequently, on balance, it is concluded that the replacement does not represent equivalent or better provision so as to satisfy paragraph 74 of the NPPF and therefore it cannot be relied on to justify planning permission. This is not, therefore, a case where the presumption in favour of sustainable development would operate to point to a grant of planning permission.

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 work is currently ongoing and it is anticipated that the draft conclusions will be available by October. This Strategy will provide the necessary evidence base when considering a proposal which would result in the loss of playing pitch provision. Consequently in the absence of any evidence from the Audit to show an over-supply of pitch provision, the decision should be taken on the basis that 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. The potential of the site to provide for more pitches than are currently laid out is an important attribute of the site when considering whether the proposed replacement provision provides equivalent or better provision. The applicant's suggestion that pitches are not fully used at present should be given little weight in the absence of the Audit. Details of the College's supporting information is attached as a appendix,

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. It is considered that the illustrative layout as submitted does show deficiencies, as identified by Sport England, in terms of pitch size and its subsequent relationship with new dwellings, which 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 a revised plan to prove that a full size pitch could be accommodated within the layout and 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 provide sufficient justification to approve the scheme which remains similar in form to the development previously assessed and subject of the planning appeal scheduled for December 2016. The assessment of the application shows the impact of development of the site 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, if a shortfall was identified in the area. The full extent of this loss of

opportunity will not be known until the conclusion reached in the Playing Pitch Strategy is published, which is anticipated to be in October. However this has to be balanced against the significant number of housing being proposed 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. 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 and whilst the positive benefits being offered by the applicants are acknowledged and should carry weight, the protection of the open space is an important consideration as is recognised by the NPPF. Accordingly refusal of the application is still recommended.

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.

RECOMMENDATION

REFUSE for the following reasons:

- 1) 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.

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