

COMMITTEE DATE: 12/02/2018

APPLICATION NO: 17/1148/OUT

APPLICANT: Waddeton Park Ltd

PROPOSAL: Outline planning permission for up to 155 residential units and a 64-bedroom residential care home. Means of access to be determined with scale, layout, appearance and landscaping reserved for future consideration.

LOCATION: Land At Clyst Road, Topsham

REGISTRATION DATE: 20/07/2017

EXPIRY DATE:

HISTORY OF SITE

There is no relevant planning history relating to this site.

DESCRIPTION OF SITE/PROPOSAL

The application site comprises a single agricultural field of approximately 6.6 hectares. The site is bounded to the east by the Exeter-Exmouth branch railway line, to the west by Clyst Road, to the north by further agricultural land and to the south by existing residential properties on Towerfield. The site boundaries comprise hedgerows and the field is currently access via a field gate from Clyst Road in the south-eastern corner.

Outline planning permission is sought for the development of the site with up to 155 residential dwelling units and a 64 bedroom residential care home. The scale, layout, appearance and landscaping of the site are all reserved matters for future consideration. Approval is sought for the means of access to the site via this application. The proposed means of access to serve the site comprises the following –

- a new junction with Clyst Road in the northern corner of the site incorporating a junction design that diverts vehicular traffic on Clyst Road through the proposed development and bollards on Clyst Road itself to make the majority of the stretch of Clyst Road fronting 'Highfield' pedestrian/cycle access only.
- a new junction with Clyst Road at the southern end of the site incorporating new sections of footpaths and further bollards to restrict vehicular access to the above-mentioned section of Clyst Road.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The application is accompanied by the following supporting documents –

- Planning Statement
- Design and Access Statement
- Flood Risk Assessment

- Ecological Report
- Transport Assessment
- Residential Travel Plan
- Care Home Travel Plan
- Heritage Desk-Based Assessment
- Geophysical Survey Report (Archaeology)
- Land Contamination – Phase 1 Desk Study
- Acoustic Appraisal

REPRESENTATIONS

132 letters of objection have been received raising the following issues –

- Clyst Road inadequate to support anticipated vehicle, pedestrian and cycle traffic
- Traffic, parking, infrastructure – impact on wider highway network, congestion including Junction 30
- Clyst Road too narrow, no capacity
- Impact on community and historical character of Topsham
- Environmental impact
- Strain on local amenities/infrastructure
- Need for affordable housing
- Overdevelopment
- Lack of comprehensive planning for additional housing – i.e. road capacity, infrastructure
- Timing of submission deliberate to avoid public comment (i.e. during holiday season)
- Local highways can't cope with extra traffic – Clyst Road unsuitable for construction traffic and thereafter extra residential traffic
- Noise pollution
- Air pollution
- Urban sprawl – separate identity of Topsham under threat
- Lack of street lighting – installation of lighting will adversely affect rural character
- Highway safety – lack of sight lines, absence of pavements, narrowness, rat-run, already dangerous esp. near Highfield Farm
- Lack of accessibility to pedestrians – lack of pavements
- Schools/doctors oversubscribed
- Lack of public consultation
- Contrary to Local Plan – LS1 designation
- Other more suitable sites for additional housing
- Loss of agricultural land
- Ecological impact, loss of hedgerows, wildlife (extensive range), Question if recent management practices were adopted to reduce wildlife value
- Urbanisation of green spaces
- Flooding – Clyst Road prone to flooding
- Question need for additional care home

- Adverse impact on quality of life in the area
- Inadequate access
- Lack of parking
- Out of keeping with character of area
- Build somewhere else around Exeter – Topsham had enough
- Is proposed diversion of traffic from Clyst Road for all traffic or just residential traffic
- Local infrastructure, including road network need upgrading and this development should contribute
- Which developers are making/promoting proposal
- Size of proposal disproportionate to size of town
- Affordable housing provision
- Precedent for further applications on adjoining land
- Care home too remote from town facilities
- Lack of public transport serving the site – train lack of rolling stock
- Exacerbate use of Denver Road – impact on highway safety in locality
- Required services to support additional housing don't exist/lag behind – lack of future planning for provision
- Not a sustainable location – appeal decision 01105/A/14/2229080 – facilities beyond recommended guidelines for walking
- Question feasibility of suggested shuttle bus
- Question benefits of making stretch of Clyst Road a cycle route given ultimately it has to re-join the already busy road with even more traffic
- What is limit to expansion of City and Topsham in particular
- Topsham Society –
 - Contrary to LS1
 - Closure of gap – question reliance on lack of 5yr housing supply to justify policy as out-of-date. Suggest site not a sustainable location therefore fails NPPF test
 - Involves open land not infilling, therefore urbanisation outside perceived edge of town
 - Highway access fundamental change in character of area
 - Potential massing of care home buildings – question suitability of site for retirement living
 - Precedent
 - Impact of recent developments on town's infrastructure and services
- Not a logical extension
- Increase likelihood of flooding
- Increase traffic on Clyst Road – safety pedestrian/cyclists in particular
- Whilst relatively close walking/cycling distance to town – safety will discourage people and prompt them to use cars
- Better locations
- Poor environment – housing close to railway
- Lack of affordable housing
- Lack of bus service
- Thoughtless erosion of farmland
- Question need for another care home

- Lack of public consultation by developer
- Diverting road through new development creates poor environment
- Question developer's ability to deliver footpaths due to land ownership
- Lack of street lighting
- Weight limit on Clyst Road
- Emergency vehicle access
- Highfield inappropriate as main means of access to properties on it as it is a private road
- Practicality of shuttle bus service in terms of finance, security of long term provision
- Drainage – impact on flooding – capacity of infrastructure to cope
- Fails to cater for needs of younger population of Topsham
- Insufficient width of footways
- Proposal fails to constitute sustainable development according to NPPF and local plan policy without significant highway improvements to facilitate sustainable modes of travel

CONSULTATIONS

Devon and Somerset Fire & Rescue Service – Comment as follows –

“We have no observations/comments in relation to the above planning application. We will be happy to consult fully on the proposed developments once suitable plans/details are available. At this stage it is appropriate to raise the value in considering Sprinklers in the development. We would be happy to pre-consult once initial documents are available on the design for both the residential dwellings and in particular the care home. Finally, it is important to raise the issue of Emergency vehicle access at this early stage of the development/design. To assist the developers we would refer to Approved Document B and section B5.”

Environmental Health – Highlights need for air quality assessment and recommends conditions relating to land contamination, CEMP, Acoustic Design Statement, kitchen extraction details, and details of mechanical plant associated with care home.

South West Water – No objection.

East Devon District Council (Planning) – No comments received.

DCC (Lead Local Flood Authority) – Comment as follows –

“A suitable surface water strategy is presented within the submitted Flood Risk Assessment (Ref. 457/FRA2, Rev V2, dated 05/06/2017). It is noted that an assumed Infiltration value of 10 mm/hr has been used to inform the design of the surface water strategy on the basis of adjacent development site ground investigation, this is shown to be consistent with other development in the immediate area. However full infiltration testing will be a requirement at the detail design to demonstrate this is viable at this location however sufficient area is available with the development to develop an attenuation based design.”

Recommendation - no in-principle objections from a surface water drainage perspective subject to appropriate pre-commencement conditions relating to percolation tests and

groundwater monitoring, details of detailed surface water drainage management system and adoption/maintenance arrangements thereof.

DCC (Education) – Comments as follows –

“Due to the number of families and children expected to move into this development, it is anticipated that this application will put pressure on local schools, where there is limited capacity to accommodate them.

Exeter City have set out that they intend school facilities to be funded through CIL. It should be noted that this development will create the need for funding of new school places and it is anticipated that these will require funding equivalent to £529,015 for primary school facilities and £470,863 for secondary school facilities, equivalent 38.75 and 21.48 children respectively. This figure has been calculated in accordance with the county council's education infrastructure plan and s106 approach and takes into account existing capacity in the surrounding schools. It is anticipated that contributions could be provided for through CIL.

A contribution towards Early Years education would also be required to ensure delivery of provision for 2, 3 and 4 year olds. This would cost £38,750 (based on £250 per dwelling). This will be used to provide additional early years provision for pupils likely to be generated by the proposed development.

If the application is approved we will deem the houses to be built and the number of school spaces considered to be available in Exeter will be reduced accordingly - this will be taken into account when calculating contributions from future applications.”

Highways England – comment as follows -

“HIGHWAYS ENGLAND ("we") has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SAN). The SAN is a critical national asset and as such works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to planning applications 17/1148/OUT and has been prepared by the Planning Manager for the SAN in Devon.

We have undertaken a review of the relevant documents supporting the planning application to ensure compliance with the current policies of the Secretary of State as set out in DfT Circular 02/2013 "The Strategic Road Network and the Delivery of Sustainable Development" and the DCLG National Planning Policy Framework (NPPF).

Statement of Reasons

The application is seeking outline consent for up to 155 dwellings and a 64-bed care home on a site adjacent to Clyst Road in Topsham. Clyst Road connects directly to the A376 and the M5 junction 30 approximately 2km from the site. The application is supported by a transport assessment (TA) prepared by PCL Transport.

Trip Generation

The TA has used trip rates which have been submitted in other TA's in the area which it states are approved by Devon County Council (DCC). It is not clear which other developments in the area are referred to, but it is assumed that this relates to development in the Newcourt area of Exeter. In this case, the text in the TA is misleading as whilst the trip rates within those other TA's were approved by DCC at the time, it does not follow that the same trip rates would automatically apply to this development, which is further from the centre of Exeter and on the southern side of the MS with limited walking and cycling routes.

The TA has assumed a two way trip rate of 0.45 generating 70 trips in the peak hour periods for the residential element of the development which we believe to be relatively low. Our results using a more robust trip rate of 0.6 generate 93 peak trips, an increase of 23 over that used in the TA. However, we are satisfied that this difference is unlikely to be significant. The care home generates a very small amount of traffic, - equating to 6 trips in the am peak and 7 in the pm peak.

Trip Distribution

Trip distribution has been assessed using Census Travel to Work data, and this methodology is accepted. Trips have been assigned to the network manually, but details of this assignment have not been provided within the TA. The applicant has assumed that 13.5% of trips will route along the MS north, and 18.3% will route along the MS south, which is broadly consistent with the distribution assumptions.

J30 Assessment

The TA uses UNSIG to assess the operation of junction 30, and it is stated that the model is a DCC approved model. However our review has highlighted some areas of concern:

- the results indicate the circulatory queues will extend beyond the stacking link space, which could potentially gridlock the junction in places and create a serious safety concern;
- the lane connectors do not match the lane destinations observed on Google maps. On arm 5/4, the model allows traffic to enter arms 9/3 and 9/4 whereas google maps show Arm 5/4 to enter arm 9/3. This occurs on several arms around the junction, the effect of this is likely to show lower queues in the model than what will occur in practice, as traffic is being distributed over a number of lanes whereas the white lining and destination marking will guide traffic to certain lanes. Therefore, there are concerns that the model does not reflect current junction geometry.

However, the modelling results indicate that the development is likely to have a negligible impact on the operation of junction 30 during the peak hours with regard to the SAN with minimal increases in queuing and delay. Having interrogated the flows predicted to use junction 30 the level of traffic using the north bound and southbound off

slips in the peak periods is minimal. It is predicted that flows on the NB off will increase by 3 trips and on the SB off will increase by 1 in the AM peak. In the PM peak it is predicted that flows on the NB off will increase by 3 trips and the SB off will increase by 2 trips.

Therefore, whilst there are concerns with the assessment and modelling, it is not considered that the development will have a severe impact on the operation of junction 30 with regard to the SRN.

Recommendation

Highways England has no objection to the proposed development.”

Network Rail – No objection in principle to this proposal but make recommendations for conditions and design considerations to be taken into account to protect railway infrastructure.

County Head of Planning, Transportation and Environment (Highways) – Comments summarised as follows –

The Highway Authority consultation response has considered the submitted Transport Assessment and subsequently submitted additional transportation impact related information in terms of its assumptions and predictions of impact on the transportation network, the proposed vehicular and pedestrian/cycle access arrangements and the wider sustainability of the proposal from a transportation perspective.

Whilst the response highlights some disagreement with the trip rates used in the Transport Assessment of the proposal it concludes that even if the higher trips rates they consider appropriate were used it would not result in a severe impact being demonstrated.

The Highway Authority response therefore concludes –

“National Policy is for the presumption of sustainable development and for developments to maximise the sustainable transport solutions in the area. The development proposes enhancements to the local sustainable transport provision by the way of a significant financial contribution and therefore it is felt that the development should be approved subject to conditions.”

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
12. Conserving and enhancing the historic 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.

Exeter Local Development Framework Core Strategy 2012

CP1 – Spatial approach
CP3 – Housing development
CP4 – Housing density
CP5 – Meeting housing needs
CP7 – Affordable housing
CP9 – Strategic transport measures to accommodate development
CP10 – Meeting Community Needs
CP11 – Pollution and air quality
CP12 – Flood risk
CP14 – Renewable and low carbon energy
CP15 – Sustainable design and construction
CP16 – Strategic green infrastructure
CP17 – Design and local distinctiveness
CP18 – Infrastructure requirements and developer contributions

Exeter Local Plan First Review 1995-2011 Saved Policies

AP1 – Design and location of development
AP2 – Sequential approach
H1 – Housing land search sequence
H2 – Housing location priorities
H3 – Housing sites
H6 – Affordable housing
H7 – Housing for disabled people
L3 - Open Space
L4 – Provision of playing pitches
L7 - Local Sporting Facilities
T1 – Hierarchy of modes of transport
T2 – Accessibility criteria
T3 – Encouraging use of sustainable modes of transport

T5 – Cycle Route Network
T8 – Safeguarding Former Railway Land and Access to Rail
T10 – Car parking standards
C5 – Archaeology
LS1 – Landscape setting
EN2 – Contaminated land
EN3 – Air and water quality
EN4 – Flood risk
EN5 – Noise
DG1 – Objectives of urban design
DG2 – Energy conservation
DG4 – Residential layout and amenity
DG5 – Provision of open space and children’s play areas
DG6 – Vehicle circulation and car parking in residential developments
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
DD19- Railway Land
DD20 - Sustainable Movement
DD21 – Parking
DD22 - Open Space
DD25 - Design Principles
DD26 - Designing Out Crime
DD28 - Heritage Assets
DD29 - Landscape Setting Areas
DD30 - Green Infrastructure
DD31 - Biodiversity
DD33 - Flood Risk
DD34 - Pollution

Exeter City Council Supplementary Planning Documents

Affordable Housing SPD 2013
Archaeology and Development SPG 2004
Planning Obligations SPD 2009
Public Open Space SPD 2005
Residential Design SPD 2010
Sustainable Transport SPD 2013
Trees and Development SPD 2009

OBSERVATIONS

Introduction

There are a number of detailed material planning considerations that need to be assessed in connection with this application. However, before examining each of those issues individually it is important to set the context in respect of the position in relation to the Council's 5 year housing land supply and implications for relevant development plan policies.

The Council's housing land supply situation, and hence weight to be attached to development plan policies, has been further considered in connection with a number of other applications for residential development and the current position is set out below.

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. 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 judgement depending on the facts of the case. For this application the most relevant policies are Core Strategy CP16 'Green Infrastructure' and Local Plan LS1 'Landscape Setting' and it is against these policies which the application is primarily assessed.

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 (i.e. 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 CP16 and Local Plan Policy LS1. The Council currently has an approximately 2 year 4 month supply of housing and the intention to address this matter will rely on co-operation with neighbouring authorities, although this is unlikely to occur in the short term. Given these circumstances it is considered that the restrictive policies would be afforded less weight given the limited progress made in respect of the housing shortfall. However, the protection of landscape setting 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 in respect of landscape protection should still carry appropriate weight.

Essentially in the absence of a five year land supply paragraph 14 of the NPPF is engaged. Paragraph 14 of the NPPF provides for what is known as the 'tilted balance' in favour of granting planning permission. Namely, planning permission should be granted unless the 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.

Two issues are important to understand in relation to paragraph 14. Firstly, the development plan (including housing supply policies) retains its statutory force under section 38(6) of the Planning and Compulsory Purchase Act 2004 but the focus shifts to 'other material considerations'. The 'other material considerations' will then be determined in accordance with the national guidance in paragraph 14.

Secondly, whilst the housing supply policies are to be considered out of date for the 'other material consideration' assessment planning weight may still be given to other policies in the development plan. However, such weight must be considered on the 'significantly and demonstrably outweigh the benefits' test founded on the golden thread of sustainable development. This 'tilted balance' test is a matter of planning judgement and the weight to be given to remaining local development plan policies is a matter for the decision maker. The absence of a five year housing land supply can legitimately be considered to constitute an 'other material consideration' in the context of the assessment of the merits of this application.

Background to this application coming forward

This application has come forward without any pre-application discussion. It has been brought forward by the applicant in response to the Council's position with regard to its inability to demonstrate a 5 year housing land supply.

Principle of development/LS1

The site lies within an area identified as Landscape Setting in both the Adopted Local Plan and Core Strategy.

Policy LS1 states –

“Development which would harm the Landscape Setting of the city will not be permitted. Proposals should maintain local distinctiveness and character and:

- (a) Be reasonably necessary for the purposes of agriculture, forestry, the rural economy, outdoor recreation or the provision of infrastructure; or
- (b) Be concerned with change of use, conversion or extension of existing buildings;

Any built development associated with outdoor recreation must be essential to the viability of the proposal unless the recreational activity provides sufficient benefit to outweigh any harm to the character and amenity of the area.”

The supporting text to Policy LS1 contains the following text at para 11.8 in respect of land locally known as the ‘Topsham Gap’, of which the application site forms a part –

“The open flattish, agricultural and horticultural land comprising large fields and low hedges between Countess Wear and Topsham, might be considered of less obvious interest but it is of significant local importance in clearly separating the settlements of Exeter and Topsham and maintaining their distinct identities. The attractive rural landscape of small fields, hedgerows and copses to the north and east of Topsham provides the essential green setting to the historic settlement of Topsham. Both these areas contribute to, and are an integral part of the wider rural landscape of East Devon and ensure the south-eastern containment of the City.”

This text is reflected in the supporting text to policy CP16 of the Core Strategy which states –

“The strategic gap between Topsham and Exeter is also particularly important in that it forms an open break between the two settlements, thus preventing their coalescence, whilst also protecting Topsham’s attractive setting. Whilst this area has a low intrinsic landscape value, the role it plays makes it sensitive to development.”

The text of policy CP16 refers to the character and local distinctiveness of specific areas (of which the ‘Topsham Gap’ is one) being protected, and the potential for proposals for landscape, recreation, biodiversity and educational enhancement to be brought forward.

The key consideration therefore in respect of the application proposal in terms of its acceptability from a policy context is considered to be –

- a) whether it would harm the landscape setting of the city by virtue of its impact upon the local distinctiveness and character of the area, and
- b) if it is determined that there is harm in this respect, whether taking into account other material considerations, such as the absence of a 5 year housing land supply, that harm/adverse impact significantly and demonstrably outweighs the benefits of the proposal in terms of the provision of much needed housing to meet identified needs.

There are similarities between this current proposal and application 14/2066/01 on land next to Topsham Rugby Club (which was allowed on appeal following a Public Inquiry in 2016) in terms of assessment of the ‘landscape setting’ matters and relevant development plan policies LS1 and CP16. In his decision letter on the latter the appeal Inspector stated the following –

“Topsham’s strong separate identity comes mostly from its history, its old buildings, its streets, its waterside setting and its community spirit. The relatively flat fields of which

the appeal site forms a part, between the western fringes of the town and the M5 also contribute to its sense of separation. The area is referred to generally as the Topsham Gap, and is protected by Core Strategy policy CP16 as the strategic gap between Topsham and Exeter. The Exeter Fringes Landscape Sensitivity Study identified the area as valuable in separating Topsham from Exeter. This wider area extends well beyond the appeal site and it is common ground that it does not have high landscape quality. Indeed it is notable that the Council have already granted planning permission for development in the gap on the opposite side of Exeter Road. Nonetheless, the large number of representations in respect of this appeal, and the many interested local people attending the inquiry, attest to the strongly-held local view that the open area between Topsham and the M5 has considerable importance as an open break in development on leaving Exeter and entering Topsham.”

Like the appeal proposal the current application site forms part of the ‘Topsham Gap’, and albeit that it is located more towards the northern fringes of the town, it still contributes to the sense of separation from Exeter as well as being part of the more open countryside to the north of Topsham. Like the appeal site this land does not have a high landscape quality and in terms of the Exeter Fringes Landscape Sensitivity Study is also identified as being of ‘medium’ landscape sensitivity.

It is fact that this scheme would result in development of part of the Topsham gap and landscape setting around Topsham, and would consequently harm the character of part of it. Having acknowledged that it would cause some harm to the landscape setting it is necessary to try and quantify the severity of this harm.

In respect of the previous appeal site the Inspector noted that the M5 forms a very strong boundary to the city’s developed area and concluded “the first open land seen after the M5 when travelling towards Topsham is, and will be, very important in maintaining the separate character of Exeter and Topsham.”

Approaching Topsham from the north along Clyst Road there is a significant amount of open land between the M5 and application site. In fact, this is the last piece of open land before the suburban fringes of the Topsham built up area that effectively bound the appeal site; directly to its southern boundary, and to the east on the other side of Clyst Road directly opposite the site. In this context the proposed development would be perceived against the backdrop of existing suburban fringe development.

Whilst the development would reduce the extent of open land between the built up area of Topsham and the M5 it is considered that the remaining open land beyond the application site to the north and the land between the appeal site and the M5, are more important in maintaining the visual separation and separate identity of Topsham and its wider landscape setting. Thereby it is considered that the degree of harm to the landscape setting and the integrity and purpose of the Topsham Gap arising from the current proposal would be relatively modest.

Therefore, whilst it is acknowledged that in this context the proposal is contrary to development plan policies LS1 and CP16 this has to be balanced against ‘other material considerations’. The Government has made clear its policy to boost significantly the supply of housing land and in a recent Supreme Court judgement Lord Gill expressed the following view –

“If a planning authority that was in default of the requirement of a five-year supply were to continue to apply it’s environmental and amenity policies with full rigour, the objective of the Framework could be frustrated”.

In this context the fact that the Council is unable to demonstrate a 5 year housing land supply is considered to amount to one such 'other material consideration. Allowing for this material consideration, and applying the principle of 'tilted balance', it is not considered that the modest harm arising from the proposal identified in respect of landscape setting development plan policies would significantly and demonstrably outweigh the benefits of the proposal in terms of the provision of housing and contribution that development of this site would make to addressing the Council's shortfall in terms of 5 year housing land supply.

Transportation Matters

Two of the key considerations in the assessment of the proposal from a transportation perspective are:

- a) the relative sustainability of the proposal in terms of ability and ease of access to a reasonable range of facilities that would normally be required by residents of the development, and
- b) the impact of the development on the transportation network.

Sustainability from a transportation perspective

Whilst the site is located on the outskirts of Topsham it is considered to be a relatively sustainable location in terms of its proximity to facilities. Topsham benefits from a range of services and facilities including doctor's surgery, dentists, primary school, library, sports grounds, public houses, shops and restaurants.

The submitted Planning Statement identifies that the site is situated approximately 0.4 miles (8 minute level walk) from the beginning of Topsham High Street and 0.6 miles (12 minute level walk) of Fore Street which is the main shopping area. It is also approximately 0.5 miles from Topsham train station which provides regular rail links to Exmouth and the national rail network via Exeter St David's Station.

Improvements to Clyst Road from the site to the Denver Road junction to provide improved pedestrian/cycle access are proposed as part of the application, along with a significant financial contribution towards wider sustainable transport improvements.

In this context it is considered that the proposal amounts to sustainable development from a transportation perspective in the context of assessment in relation to section 4 of the NPPF.

Impact on transportation network

Whilst the Highway Authority and Highways England have both questioned the trip rates and the associated assessment and modelling in the submitted Transport Assessment they have both advised that even if different trip rates/assumptions which they consider more appropriate were used, this would not demonstrate a severe impact on the local road network or the strategic road network/M5 J30. Therefore, in capacity terms the proposal is considered acceptable.

The measures highlighted above to improve pedestrian/cycle accessibility along Clyst Road, coupled with the financial contribution towards sustainable transport improvements and Green Travel Plans will all help to reduce reliance on motorised transport and thereby reduce the potential impact of the development on the transport network.

The submitted plans demonstrate two suitable accesses into the development land from Clyst Road and a condition is proposed to secure the above mentioned improvements to Clyst Road. The internal road network within the site linking these two access points would be brought forward and agreed as part of any subsequent reserved matters application.

Consequently, it is not considered that the proposal would result in severe transport impacts that would warrant refusal when assessed against policy contained in the NPPF.

Green Infrastructure/Ecological Impact

The site lies within Flood Zone 1 as indicated on the Environment Agency (EA) Flood Zone maps and as such is defined as being low risk in terms of potential river or sea flooding. From a surface water perspective, the submitted Flood Risk Assessment notes that EA surface water flood risk plans identify a limited local risk associated with a low-lying area within the site which could be designed out through attention to proposed site levels as part of any detailed development proposals. The Flood Risk Assessment identifies the potential for adoption of a Suds approach (Sustainable Urban Drainage) to surface water drainage as part of the development of this site. This would need to be subject to further infiltration tests to confirm acceptability of this approach and DCC as the Lead Local Flood Authority have recommended appropriate conditions covering this and detailed design/maintenance arrangements in respect of the drainage system to be utilised. Potential surface water drainage features offer significant potential to make positive contributions to the enhancement of the site ecological interest.

The executive summary of the submitted Ecological Report states the following –

“The habitats of the site are typical of the surrounding landscape. The boundary hedgerows are not especially species-rich but they have a bushy structure and, like all native hedgerows they are a habitat of principal importance for nature conservation. The main field supports species-poor grassland at the time of the survey, although it is periodically ploughed and used for arable crops.

Survey work has indicated that the site is used by low numbers of bats, which forage and commute along the boundary hedgerows. The open fields are of very little value for bats. There is evidence that dormice use the boundary hedgerows, albeit in low numbers and their population is limited by the presence of wood mice (which out-compete them for resources).

The retention of the boundary hedgerows will preserve the majority of the site’s ecological value. The provision of a buffer zone around the edge of the site, within which there will be no artificial lighting, will further protect the ecological interest. The development will deliver a net gain in biodiversity.”

The report concludes –

“It is clear from the survey results that the proposed development can be completed without harm to biodiversity. By implementing the recommendations for habitat enhancement and management it will be possible to create net gain in biodiversity.”

An appropriate condition can be attached to any approval to secure submission of wildlife and ecological enhancement plan.

Retention and enhancement of existing vegetation, along with provision of open space within the development and improvement of walking and cycling facilities in the vicinity of the site will make a positive contribution to green infrastructure as part of the development.

The site has the potential to contain as yet unknown archaeological remains. Whilst the submitted geophysical survey and report are sufficient to allow the application to be determined and do not identify any remains that would affect the principle or layout/quantum of development achievable on this site. However, such surveys are not infallible and do not identify less substantial remains such as those of timber buildings, burials or fire pits for example. These have been found elsewhere in the locality despite not showing up on geophysical surveys, such as on the Burrington Estates development on the other side of the railway line adjoining Topsham Rugby Club. Therefore, a programme of archaeological site investigation is required to identify, excavate and record any significant but less substantial remains before construction work commences and destroys such remains. This can be secured by an appropriate condition attached to any grant of planning permission.

Affordable Housing/Specialist accommodation for older people

The proposal will provide 35% of the total number of residential units on site in the form of affordable housing in line with policy CP7 of the Council's adopted Core Strategy. This would be secured through appropriate clauses within any S106 associated with the development.

There is a recognised need to provide more accommodation catering for the ageing population. It is likely that a significant proportion of this ageing population will choose to live in specialist older persons accommodation, including care homes and therefore the proposed care home incorporated within this proposal will help to meet this growing need.

Design/layout/amenity standards

Given the size of the site and proposed access arrangements there is no reason, in principle, why the site could not accommodate the scale of development sought i.e. up to 155 residential units and a 64-bed residential care home in an acceptable layout that complies with the advice contained in the Council's adopted Residential Design SPD, including appropriate internal and external amenity space standards. The application is accompanied by an illustrative framework masterplan that depicts one potential approach to the layout that incorporates open space, sustainable drainage and a managed landscape buffer to the existing railway line. However, all detailed matters relating to the scale, layout, appearance and landscaping of the development are reserved for subsequent approval, so it is possible that an alternate approach to the layout could be brought forward as part of any subsequent 'reserved matters' application.

The final detailed layout and design of the development will therefore be subject to further appraisal as part of the consideration of any subsequent application for approval of those reserved matters.

Financial Considerations

The proposal is CIL liable in respect of any dwellings constructed on the site apart from those provided as social Housing for which Social Housing Relief would be applicable on application in accordance with the CIL Regulations. The Care Home falls within use Class C2 and as such does not attract CIL. In the absence of any detailed information in respect of the size/design of the dwellings (which would follow at 'reserved matters' stage) it is not possible to quantify the amount of CIL that will be payable in association with the development.

All new dwellings would attract New Homes Bonus payments in line with legislation in force at the relevant time.

Section 106

This development will be CIL liable as stated above. The Education Authority have referred to funding of additional school places through CIL contributions derived from this proposal. However, no decision on the allocation of CIL contributions associated with this application have been taken and therefore there can be no assumptions made in this respect.

A Section 106 agreement will be required in respect of the following matters -

- £1 million contribution towards the funding of sustainable transport improvements that enhance linkage of the site to a greater range of facilities by non-car means of travel.
- Travel Plan contribution £500/dwelling.
- Clyst Road improvements comprising combined foot/cycle path to encourage sustainable transport
- 35% affordable housing with a tenure split 70/30% social rented/intermediate, and 5% of affordable units as wheelchair accessible housing built in accordance with the Council's Wheelchair Accessible Housing Design Standards.

Conclusions

Having considered all the matters outlined above, with particular reference to the relatively modest impact of the development in terms of landscape setting policy, the conclusion is that the development would not have any severe transport impacts that would justify refusal. The significant contribution that this site would make to housing delivery (including affordable housing and a care home meeting the needs of the ageing sector of the population) and having due regard to the weight to be attached to the fact that the Council is unable to demonstrate a 5 year supply of housing land, the proposal is considered acceptable.

RECOMMENDATION

Subject to the completion of a S106 covering the matters referred to above **APPROVE** the application subject to the conditions listed below:-

In the event that the section 106 agreement is not completed within 6 months of the date of this committee meeting, authority be delegated to the City Development Manager to REFUSE permission for the reason that inadequate provision has been made for the matters which were intended to be dealt with in the section 106 agreement.

- 1) Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun not later than two years from the final approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92(2) of the Town and Country Planning Act 1990 (as amended).

- 2) **Pre-commencement condition:** Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and

approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason for pre-commencement condition: To safeguard the rights of the local planning authority in respect of the reserved matters. This information is required before development commences to ensure that the development is properly planned with appropriate regard to the reserved matters.

- 3) In respect of those matters not reserved for later approval (i.e. access to the site) the development hereby permitted shall be carried out in accordance with the proposed access scheme shown on drawing no.

Reason: To ensure that the detailed design of the two access junction serving the site from Clyst Road are appropriate and provide a safe and suitable means of access to the site.

- 4) **Pre-commencement condition:** Prior to the commencement of the development hereby approved a scheme of highway improvement works (including a timeframe for its implementation) to the stretch of Clyst Road from its junction with Whitehill Lane to its junction with Denver Road (to include the provision of a combined footpath/cycleway) broadly in accordance with the indicative scheme on drawing no. shall be submitted to, and be approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. Thereafter the development shall be completed in accordance with the approved scheme and implementation schedule.

Reason for pre-commencement condition: To improve pedestrian and cycle access to and from the site and thereby encourage the use of sustainable modes of transport and enhance the sustainable nature of the development.

Or

To improve the accessibility of the site by sustainable modes of transport in the interests of sustainable development.

- 5) **Pre-commencement condition:** A Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site and adhered to during the construction period. This should include details of monitoring and mitigation measures to control the environmental impact of the development during the construction and demolition phases, including site traffic and traffic routing, the effects of piling, and emissions of noise and dust. The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.

Reason for pre-commencement condition: In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

- 6) **Pre-commencement condition:** No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason for pre-commencement condition: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

- 7) **Pre-commencement condition:** No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason for pre-commencement condition: To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.

- 8) **Pre-commencement condition:** No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason for pre-commencement condition: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

- 9) **Pre-commencement condition:** No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system, and full details of its proposed adoption and maintenance arrangements, has been submitted to, and been approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment (Ref. 457/FRA2, Rev V2, dated 05/06/2017).

Reason for pre-commencement condition: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, is managed in accordance with the principles of sustainable drainage systems, and that the surface water drainage management systems will remain fully operational throughout the lifetime of the development.

- 10) Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culvert or drains. In the interest of the long-term stability of the railway, soakaways/attenuation ponds should not be constructed within 20 metres of Network Rail's boundary. Any surface water run-off from the site must drain away from the railway boundary and must NOT drain in the direction of the railway as this could import a risk of flooding and / or pollution onto Network Rail land.

Reason: To protect the functioning of the railway network and the on-going provision of public transport facilities.

- 11) **Pre-commencement condition:** All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary

compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Reason for pre-commencement condition: To protect the functioning of the railway network and the ongoing provision of public transport facilities.

- 12) **Pre-commencement condition:** No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

- 13) **Pre-commencement condition:** No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

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

- 14) **Pre-commencement condition:** Prior to commencement of the development the applicant shall submit for approval in writing by the LPA an Acoustic Design Statement. Any mitigation measures required shall be implemented in full prior to occupation of the development, and maintained thereafter. *The Professional Practice Guidance Note (ProPG): Planning and Noise for New Residential Development May 2017 (ANC, IoA and CIEH) describes the expected content and approach of an Acoustic Design Statement.*

Reason for pre-commencement condition: In the interests of the protection of the residential amenity of future occupants of the development.

- 15) **Pre-commencement condition:** Before commencement of development the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any

dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.

Reason for pre-commencement condition: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15. This information is required before development commences to ensure that a sustainable design is finalised before any irreversible element of the construction process takes place.

- 16) Any reserved matters application submitted pursuant to this outline planning permission shall incorporate within the overall design and layout of the development appropriate pedestrian/cycle connectivity to all adjacent land.

Reason: To ensure that connectivity/permeability is achieved that maximises the opportunity for the use of sustainable modes of transport to access local facilities and links to the wider transport network.

- 17) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.

Reason: To ensure that the materials conform to the visual amenity requirements of the area.

- 18) Before the care home use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the kitchen(s) shall be submitted to, and approved in writing by, the local planning authority and the approved scheme shall be implemented. All equipment installed as part of the scheme shall be operated and maintained in accordance with the manufacturer's instructions thereafter. *The applicant should be advised that further guidance on the required information is available in annex B of the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.*

Reason: In the interests of the protection of the residential amenity of future occupants of the care home.

- 19) Prior to the installation of any mechanical building services plant at the care home, details of the plant shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design (including any compound) and noise specification. The plant shall not exceed 5dB below the existing background noise level at the care home boundary. If the plant exceeds this level, mitigation measures shall be provided to achieve this in accordance with details to be submitted to and approved in writing by the Local Planning Authority. (All measurements shall be made in accordance with BS 4142:2014).

Reason: In the interests of the amenity of the area, especially nearby residential uses. These details are required pre-commencement as specified to ensure that the plant will not give rise to significant adverse impacts on the amenity of neighbouring receptors.

- 20) The care home hereby approved shall be operated in accordance with a detailed Travel Plan that shall be submitted to be approved in writing by the Local Planning Authority prior to its occupation. The detailed Travel Plan shall be based on recommendations and conclusions of the submitted outline Care Home Travel Plan Project Ref 4182 dated 20th June 2017 prepared by PCL Transport and submitted in support of the application.

Reason: In the interests of sustainable development.

21) No construction/demolition work shall take place outside the following times: 8am to 6pm (Mondays to Fridays) 8am to 1 pm (Saturdays) nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity.

22) 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 in accordance with the approved details.

Reason: To enhance the biodiversity quality of the site.

Informatives

- 1) In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.
- 2) Your attention is drawn to the comments of Network Rail in their consultation response dated 15th November 2017 (copy attached to this decision notice)
- 3) The internal road network within any reserved matters submission pursuant to this outline consent will be expected to demonstrate a 6m carriageway width on any through roads (excluding any foot/cycle paths).
- 4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
- 5) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.

It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (i.e. where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see www.exeter.gov.uk/cil.

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