

**COMMITTEE DATE:** 15/04/2019

**APPLICATION NO:** 18/0707/FUL  
**APPLICANT:** Heritage Developments SW Ltd  
**PROPOSAL:** Construction detached dwelling with associated parking and infrastructure on land to rear of 20 Countess Wear Road.  
**LOCATION:** 20 Countess Wear Road  
Exeter  
Devon  
EX2 6LG

**REGISTRATION DATE:** 22.11.2018

### **SITE HISTORY**

Outline planning permission (08/0342/OUT) was previously sought in 2008 for the construction of a dwelling within the rear garden of 20 Countess Wear Road. The application was withdrawn. There is no further recent relevant planning history for this site.

### **DESCRIPTION OF SITE/PROPOSAL**

This site consists of a section of rear garden of 20 Countess Wear Road. The site faces Mill Road and two properties known as Westerlings and Kilncroft. The site slopes from east to west with a level gate access onto Mill Road, which is a private road. The lower part of the site is located within flood zone 3a and flood zone 2. It is in close proximity to the River Exe and is opposite a Site of Nature Conservation Importance.

This application seeks permission for a single dwelling of contemporary design. The ground level will provide storage and a garage with parking to the front and access onto Mill Road. Habitable living accommodation will be provided on the first and second floor, including four bedrooms.

An additional application is also currently under consideration for the demolition of the existing house and annex, and replacement with four dwellings (ref. 18/0704/FUL).

### **SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT**

#### **Design and Access Statement**

The statement describes the site, provides an overview of the proposed development and outlines the proposal in relation to relevant policy.

#### **Flood Risk Assessment and Drainage Strategy**

A Site Specific Flood Risk Assessment (FRA) has been submitted in respect of the two applications current under consideration at 20 Countess Wear Road (18/074/FUL and 18/0707/FUL). This site falls within flood zone 3.

The FRA demonstrates that the proposed development would not increase the flood risk to the site or surrounding area. Some of the key points raised in the FRA are summarised below:

- The habitable accommodation is not at risk as it is above the 100 year flood level and a safe egress route is provided to Countess Wear Road;
- There is a low risk of flooding from overland regimes;
- Evaluation of groundwater regime and required mitigation should be carried out during the detailed design stage;
- Discharge into the surface water sewer will be restricted along Mill Road, with cascading attenuation crates;
- Wet proofing techniques are recommended for the ground floor level to insure quick recovery.

### **Sequential test and exceptions test**

A statement is provided to address the sequential and exceptions test. The statement highlights the wider sustainability benefits of the proposal and the lifetime safety of the property.

### **Extended Phase 1 Habitat Survey & Preliminary Ecological Appraisal**

This report concludes that the site is of limited ecological value.

It recommends that reasonable and proportionate mitigation and enhancement provisions should be provided. These would enhance the integrity of the site for the benefit of wildlife and for the occupants of the new house.

The site does not appear to provide the potential for use as a breeding or roosting/sheltering site by any European protected species. A great crested newt survey is likely to confirm that conclusion. The needs of bats, birds and other wildlife can, however, be accommodated and enhanced by the provisions recommended within the report.

## **REPRESENTATIONS**

**Objections: 47, including an objection from Exeter Civic Society.** Principal planning issues raised:

- The two applications for the site should be assessed as one development
- Previous reasons for refusal (08/0342/OUT) still relevant for this application *N.B. this application was withdrawn; it was not refused.*
- Overdevelopment of the site
- No affordable housing provided
- A four bed property ignores need for 1-3 bed dwellings
- Poor design, proposed dwelling considered too high, over bearing and out of character with the area
- Major issues regarding loss of light, amenity and privacy of neighbours
- House set too far back, impacts on green corridor
- Negative impact on the Riverside Valley Park
- Loss of trees detrimental and replacement trees not appropriate
- Parking provision is poor and poor access visibility will create conflict with pedestrians and other road users
- Vehicle access crosses private land
- Increased traffic
- Access to site for construction
- Increased flood risk, particularly from surface and ground water

- No update on flood risk zones by EA
- Negative impact on ecology, including the bats, birds, bees and wildlife impacts
- Additional pressure on the sewer system and proximity to SWW sewer
- Additional traffic detrimental to air quality
- Detrimental noise impacts, particularly during construction
- Heritage impacts - impact on historic setting of lime kilns and loss of historical hut
- Archaeological survey required

**Support: 1. Principal planning issues raised:**

- the area will benefit from additional housing on smaller sites,
- access and provision of off road parking is well thought out
- preferable to development on a green field site

**CONSULTATIONS**

**The Environment Agency** are satisfied that the second part of the exceptions test has been met. However, they do advise that the application is not determined until the local authority is satisfied with regard the sequential test and the first part of the exceptions test. With regards the first part of the exceptions test, the flood risk assessment has correctly identified the flood risks correctly (for the 100 year lifetime) and designed suitable mitigation methods. The mitigation methods also address the surface water risk along Mill Road.

**The Environmental Health Officer** has raised no objections to the proposal subject to a condition to control construction and demolition hours.

**PLANNING POLICIES/POLICY GUIDANCE**

**Central Government Guidance: National Planning Policy Framework (2018)**

- 2 Achieving sustainable development
- 5 Delivering a sufficient supply of homes
- 9 Promoting sustainable transport
- 11 Making effective use of land
- 12 Achieving well designed places
- 14 Meeting the challenge of climate change, flooding and coastal change

**Exeter Local Development Framework Core Strategy**

Objective 9

*'Create and reinforce local distinctiveness and raise the quality of urban living through excellence in design.'*

CP1 Spatial approach

CP4 Housing density

*'Residential development should achieve the highest appropriate density compatible with the protection of heritage assets, local amenities, character and quality of the local environment and safety and convenience of the local trunk road network.'*

CP5 Meeting housing needs

CP7 Affordable housing

CP12 Flood risk

CP15 Sustainable design and construction

CP17 Design and local distinctiveness

## **Exeter Local Plan First Review 1995-2011**

AP1	Design and local distinctiveness
AP2	Sequential approach
H1	Housing and land search sequence
H2	Housing location priorities
H6	Affordable housing
T1	Hierarchy of modes of transport
T2	Accessibility criteria
T3	Encouraging use of sustainable modes of transport
T10	Car parking standards
EN4	Flood risk
DG1	Objectives of urban design
DG2	Energy conservation
DG4	Residential layout and amenity
DG6	Vehicle circulation and car parking in residential developments
DG7	Crime prevention and safety

## **Exeter City Council Supplementary Planning Documents**

Residential Design SPD 2010  
Sustainable Transport SPD 2013

## **Exeter City Council Development Delivery DPD (Publication Version) 2015**

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	Accessible, adoptable and wheelchair user dwellings
DD13	Residential amenity
DD20	Sustainable movement
DD21	Parking
DD25	Design principles
DD26	Designing out crime
DD31	Biodiversity
DD33	Flood risk

## **Technical Housing Standards – Nationally described space standards (March 2015)**

### **OBSERVATIONS**

The principal issues of concern relating to this application are:

- the principle of the development
- impact on amenity of neighbouring properties
- design
- flooding

### **Principle of the development**

Located within an existing residential area, infill development represents an important contribution to housing provision within the city. Residential development of this site is considered appropriate in principle. Proposals that will be detrimental to the local amenity, character and quality of the local environment and safety of local roads are considered to be unacceptable. In order to secure a sustainable pattern of development, careful design is considered key.

### **Design and amenity**

The adjoining property, 28 Mill Road is located to the north west of the property and is the most significantly impacted by the proposed dwelling. The position of the proposed dwelling within the site is such that it will extend 5 metres beyond the rear elevation of 28 Mill Road, at the two storey level (approx. 8.6 metres from ground level, as measured from the plans). The height and length of this section of blank rendered wall will create issues of overshadowing, loss of natural light and poor outlook to the rooms at the rear of the property. This issue is exacerbated due to the orientation of the site, the rooms and garden would be impacted for the majority of the day. It is considered that the proposed dwelling would have an adverse impact on the residential amenity of the property, to the extent that the ability of the residents to feel at home within their garden would be significantly diminished. Consequently it is considered the proposal fails to comply with Policy CP4 of the Exeter Core Strategy, Policy DG4 of the Exeter Local Plan and Policy DD13 of the Development Delivery DPD.

In accordance with the wishes of Members at the Delegation Briefing meeting held on 5 February 2019, the applicant has been offered the opportunity to revise the application to address concerns about amenity. However, this offer was declined.

### **Flooding**

As the lower section of the site is located within flood zones 3a and 2, a sequential test and exceptions test must be applied in accordance with the requirements of the NPPF.

In terms of the sequential test, the site is located within an existing residential area and as such the provision of an additional residential development is acceptable in principle. The Exeter Core Strategy, Exeter Local Plan and the Publication Version of the Development Delivery Development Plan Document identify that sites within the urban area have the potential to meet the housing requirement in the city and therefore are appropriate. More specifically, the proposal is considered to be in compliance with the vision and sustainability objectives of the Exeter Core Strategy. This site's location is close to existing shops and public transport routes and therefore offers a sustainable location for development. It is therefore concluded that the site satisfies the sequential test as required by the National Planning Policy Framework.

Due to the vulnerability of the proposed development and its location within flood zone 3a it must also pass the Exceptions Test. The first part of Exceptions Tests follows on from the Sequential Test and is assessed by the local planning authority. As already stated the development is considered to be in compliance with the vision and sustainability objectives of the Exeter Core Strategy. Hence the development scores positively in regards to measures of sustainability and therefore it is considered that the development would provide wider sustainability benefits to the community that outweigh the flood risk.

The second part of the Exceptions Test requires that development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. The Environment Agency has confirmed that the Flood Risk Assessment has identified the flood risks correctly (for the 100 year lifetime), and

designed suitable mitigation measures. The second part of the exceptions test has therefore been passed.

### **Other matters**

In terms of residential amenity for future occupiers of the proposed dwelling, the design meets the Council's minimum standards, as set out in Policy DG4 of the Exeter Local Plan and the Residential Design Guide SPD. On a minor note, although two store areas have been denoted on the ground floor plan, there is no specific provision for secure cycle storage on the plans. As a residential dwelling, in line with Policy T3 of the Exeter Local Plan, a minimum of two secure cycle parking spaces should be provided for a dwelling of this size; this has not been provided. Furthermore, the Residential Design Guide SPD requires bin storage to be provided within purpose built structures which preserve residential amenity and the quality of the townscape. This has not been provided and instead the bin storage is just shown to the side elevation of the property.

There are no trees worthy of retention within the site that would be affected by the development. If this application were to be approved, a landscaping scheme requiring appropriate planting would be imposed by condition.

The proposal, if approved, would not harm the character and setting of Riverside Valley Park.

The local highway network is capable of accommodating the additional traffic generated by one dwelling. The design provides appropriate parking with an acceptable level of visibility for access and egress. If this application were to be approved it would be appropriate to include a condition addressing the impact of the development during construction.

The traffic generated by an additional dwelling would not cause sufficient detriment to air quality to justify refusal.

There is no objection from South West Water in relation to sewer capacity or any other matter.

There is some potential for buried remains to survive on the lower part of the this site, adjoining Mill Road and the former wharf, albeit these are likely to have been disturbed and partly removed by the creation of the present concrete hardstanding. Buried remains are non-designated heritage assets in terms of the NPPF, and are also covered by saved policy C5 and draft DDPD policy DD28. Any remains present on this site are not going to be sufficiently well preserved to represent a planning constraint on any development proposal. However, they do need to be identified and recorded in line with NPPF s. 199 and policy C5. A standard pre-commencement condition can be attached to any planning permission to ensure this.

There are no other heritage issues, as the settings of the closest listed buildings are not affected by the current development proposal; nor are the group of locally listed buildings to the north around Shepherd's Hill.

Objectors raised concerns that the development should be providing affordable housing in line with Policy CP7 of the Core Strategy. This policy is superseded by paragraph 63 of the NPPF (2018) which states that provision of affordable housing should not be sought for residential developments that are not major developments. As a minor application for a single residential dwelling, this falls well below the threshold of 10 for a major development. The development is therefore not required to provide affordable housing.

As a result of the concerns raised by objectors regarding the impact of the development on the ecology of the site, an Ecological Appraisal was provided. The appraisal concluded that there would be little material impact on the site ecology and habitat value. Suggesting mitigation and enhancement provisions could improve the site for wildlife. In line with the findings of the Ecological appraisal, it is not considered that impact on ecology is a valid argument for refusal.

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature and scale of the development it has been concluded that an AA is required in relation to potential impact on the relevant SPA's. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. If allowed this impact will be mitigated in line with the South-east Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the CIL collected in respect of the development being allocated to funding the mitigation strategy. If the proposal were to be allowed it would generate £20,669.74 in CIL contributions.

### **Conclusion**

Although the principle of development at this site is considered acceptable, the proposal will create adverse impacts on the amenities of the neighbouring property, 28 Mill Road. There are no other issues which would justify refusal. For the reasons outlined within this report the application is recommended for refusal.

### **Members site visit, 29 January 2019**

The details of the two proposals were outlined to members, who were able to observe the impact of the development on the adjoining properties. The proposal was viewed from within the site and from Mill Road.

### **Delegation Briefing, 5 February 2019**

The application was considered in conjunction with a further application relating to 20 Countess Wear Road which was for residential provision following the demolition of an existing property.

Forty-seven objections had been received on grounds relating to design, amenity, heritage, transport and environmental impact. It was noted that a flood risk assessment had been submitted in respect of this Flood Zone 3 area.

Members supported the suggestion to negotiate a revised proposal and that either this, if acceptable for approval, or the existing application, which was likely to be recommended for refusal, must be referred to the Planning Committee because of the number of objections.

## **RECOMMENDATION**

### **REFUSAL REASON**

1) The proposal would be contrary to Objective 9 and Policies CP4 and CP17 of the Exeter Core Strategy, Policies H2, DG1 and DG4 of the Exeter Local Plan First Review and the Residential Design Guide SPD because the siting scale and design of the development would have a poor relationship with, and overbearing impact on, No. 28 Mill Road with adverse impacts on the residential amenities of existing and future occupiers of the property, particularly in terms of loss of outlook and overshadowing in the garden area

## **INFORMATIVES**

1) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

2) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).