

COMMITTEE DATE: 24/06/2019

APPLICATION NO: 18/1120/OUT
APPLICANT: Mr Cork
PROPOSAL: Outline planning permission for development of site to provide 7 residential units (3 open market and 4 self-build plots) with access from Newcourt Road (Appearance, Landscaping, Layout and Scale all reserved for subsequent approval)

LOCATION: Land adjoining 46 Newcourt Road
Topsham

REGISTRATION DATE: 03.08.18

SITE HISTORY

There is no relevant planning history relating directly to this site. However, the following application relating to a nearby site is considered relevant to the consideration of housing proposals within the 'Topsham Gap'. –

17/1148/OUT - 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. Refused contrary to officer recommendation on 07/03/2018 but subsequently allowed on appeal by the Planning Inspectorate on 14/01/2019 following a Public Inquiry.

DESCRIPTION OF SITE/PROPOSAL

The application site comprises a field of approx. 0.6ha situated on the north side of Newcourt Road. The site is bounded by Newcourt Road itself (from which there is a field gate giving access to the site), the Exmouth branch railway line to the east, a further field to the north, and dwellings and their curtilage to the south. All the boundaries to the field comprise hedgerows of varying heights and thickness.

Outline planning permission is now sought for the development of the site to provide 7 dwellings (3 open market and 4 self-build plots) with access from Newcourt Road. The appearance, landscaping, layout and scale of the development are all matters reserved for subsequent approval.

SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT

The application is accompanied by the following supporting documents –

- Planning Statement
- Technical Note in respect of Highways and Access
- Archaeological Magnetometer survey
- Ecological Impact Assessment, Ecological Impact Assessment Addendum and Ecological Impact Assessment Technical Note.
- Tree Survey

- Drainage Strategy information

REPRESENTATIONS

11 letters of objection (including one from the Topsham Society) have been received raising the following issues –

- Constitutes development in 'landscape setting' contrary to the Core Strategy and Development Plan – loss/erosion of gap between Exeter and Topsham
- Undesirable precedent weakening ability to resist further development on green space
- Transportation issues –
 - Increased traffic using narrow lane, including construction traffic
 - Vehicular access unsatisfactory due to narrowness of lane, lack of visibility and impact on highway safety
 - Lack of pavements on Newcourt Road
- Loss of green space
- Loss of hedgerow/wildlife impact
- Bat activity
- No need for additional housing in area given existing developments underway
- Not a sustainable location for development
- Doubtful benefits of 'self-build' housing, real need is for affordable housing for local people
- Erosion of character of Topsham and pressure on local facilities
- Impact on water supply and sewage system locally
- Potential overlooking/loss of privacy
- Factual inconsistencies in supporting documents regarding proximity of local facilities

CONSULTATIONS

County Head of Planning, Transportation and Environment – Comment that the level of traffic generation is expected to be modest and the vehicular access is acceptable in principle. Conditions are recommended to ensure provision of footway and crossing point and secure cycle parking.

Environmental Health – Recommends conditions relating to hours of construction, land contamination and an acoustic design statement.

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

Devon County Council (Lead Local Flood Authority) – Highlight that they are not a statutory consultee in this case as the proposal is not a major development. Notwithstanding this comment that the surface water drainage in connection with the scheme should follow the principles of sustainable drainage.

South West Water – Confirm that potable water supply can be provided, that only foul drainage will be permitted to connect to public foul/combined sewer and recommend that surface water is discharged as high up the hierarchy of drainage options as is reasonably practical.

Principle Project Manager (Heritage) - Although no remains are currently known on this particular site, this does not mean that none are actually present. Due to the potential for this site to contain similar remains a condition requiring a scheme of archaeological work should be attached to any grant of permission.

PLANNING POLICIES/POLICY GUIDANCE

Central Government Guidance

National Planning Policy Framework (NPPF) – with particular regard to sections

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

National Planning Policy Guidance (NPPG)

Exeter Local Development Framework Core Strategy 2012

- CP1 – The Spatial Approach
- CP3 – Housing Distribution
- CP4 – Density
- CP5 – Meeting Housing Needs
- CP7 – Affordable Housing
- CP9 – Transport
- CP11 – Pollution and Air Quality
- CP12 – Flood Risk
- CP14 – Renewable and Low Carbon Energy in New Development
- CP15 – Sustainable Construction
- CP16 – Green Infrastructure, Landscape and Biodiversity
- CP17 – Design and Local Distinctiveness
- CP18 – Infrastructure
- CP19 - Strategic Allocations

Exeter Local Plan First Review 1995-2011 Saved Policies

- AP1 – Design and Location of Development
- AP2 – Sequential Approach
- H1 – Search Sequence
- H2 – Location Priorities
- H5 – Diversity of Housing
- H7 – Housing for Disabled People
- 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) (DDDPD):-

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

DD8 - Housing on unallocated sites
DD21 - Accessibility and sustainable movement
DD29 - Protection of landscape setting areas

Exeter City Council Supplementary Planning Documents

Residential Design SPD
Planning Obligations SPD
Sustainable Transport SPD
Trees in Relation to Development SPD
Archaeology and Development SPD

Other documents

Exeter Fringes Landscape Sensitivity and Capacity Study February 2007
Visual Land Parcel Evaluation for Potential Residential Sites in Exeter September 2013

OBSERVATIONS

There are a number of material planning considerations that need to be assessed in connection with this application. However in terms of the overall context for determination of the application it is important to highlight the position in relation to the Council’s 5 year housing land supply and implications for relevant development plan policies.

Most recently this position has been highlighted in the consideration of an application for residential development of land in close proximity to the current application site, namely application 17/1148/OUT for land at Clyst Road that is only separated from the current application site by the intervening Exeter to Exmouth branch railway line. During this recent Public Inquiry it was accepted that the Council could only demonstrate a 5 year land supply of just over 2 years and 1 month. This is important when weighing up the planning balance in reaching a decision on the current application.

The current application site lies within an area identified as Landscape Setting in both the Adopted Local Plan and Core Strategy – Policies LS1 and CP16 respectively.

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.”

Whilst it is not considered that the proposed development would satisfy the requirements of this policy, in the Clyst Rd appeal mentioned above the Inspector referred to the policy as being based on outdated information, superseded by national policy and thereby concluded that conflict with this policy should be afforded limited weight. As such it is considered that conflict with policy LS1 should be afforded limited weight in the determination of this application. The Inspector also attached no weight to policy DD29 of the emerging Development Delivery DPD due to the fact that it has not been progressed to submission and is likely to be delayed until sufficient progress has been made with the intended Greater Exeter Strategic Plan (GESP). It is accepted that no weight should be attached to DDDPD policies in the consideration of this current application

Therefore the critical policy against which to judge the merits of the principle of residential development of the application site is policy CP16. The relevant section of policy CP16 is its third paragraph which reads as follows -

“The character and local distinctiveness of the areas identified below, will be protected and proposals for landscape, recreation, biodiversity and educational enhancement brought forward, in accordance with guidance in the Green Infrastructure Strategy, through the Development Management DPD:

- the hills to the north and north west;
- Knowle Hill to the south west;
- the strategic gap between Topsham and Exeter;
- and the Valley Parks: Riverside, Duryard, Mincinglake, Ludwell, Alphington to Whitestone Cross, Savoy Hill and Hoopern.”

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 5yr 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.

Therefore a case specific assessment of the harm/impact arising from the scheme is required. The explanatory text to policy CP16 states the following in respect of the Topsham Gap –

“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 site forms does form part of the ‘Topsham Gap’ and whilst it is located more towards the norther fringes of the town it still contributes to the sense of separation from Exeter as part of the more open countryside to the north of Topsham. In terms of the Exeter Fringes

Landscape Sensitivity and Capacity Study 2007 the land forms part of land parcel 21 which is identified as being of 'medium' landscape sensitivity. The site is also one of those assessed in the Visual Land Parcel Evaluation for Potential Residential Sites in Exeter (Sept 2013) as site no 107. The assessment of this site concludes that does not make an important contribution to the visual amenity of the urban fringe, and has limited impact in views both of, and from the site. In terms of visual value and susceptibility the site is evaluated as being low in both respects, with no distinct features other than the hedge site boundaries. It is also identified as being of very low visual sensitivity.

Notwithstanding the above it is fact that the 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. However, the development of this small site would not in itself lead to any material coalescence between the two settlements. Its visual sensitivity is identified as low and in the context of the character of the immediate vicinity of the site, and the fact that land adjoining the site on the other side of the railway line has recently been granted permission for residential development on appeal, it is not considered that this proposal would have a significant urbanising effect. There would still remain open land between the site and the Motorway and therefore whilst the 'gap' would be eroded its function in respect of preventing coalescence in terms of policy CP16 would be maintained and the remaining gap would continue to serve its purpose of separation. In this context the harm to the landscape setting arising from this particular proposal is considered minimal.

Even if a contrary view of the proposal with regard to the degree of harm resulting from it on the landscape setting and local distinctiveness and character of the area is adopted, it would be necessary to balance this against the Council's inability to demonstrate a 5 year housing supply. In the recent appeal decision in respect of the Clyst Road site, despite considering that the scheme would not protect the character and local distinctiveness of the strategic gap, the Inspector concluded "in the light of the considerable housing shortfall, the contribution that the appeal scheme would make to the supply of housing is an important material consideration that is sufficient to outweigh the adverse effect that would be caused to the character and local distinctiveness of the strategic gap and conflicts with the relevant development plan policies in this instance."

Given the above assessment of the merits of the scheme the proposal is considered acceptable from a landscape setting policy perspective.

Highways

The Highway Authority have no in principle objection to the scheme. The level of traffic generation from the seven dwellings site is expected to be modest and the additional traffic generated is not a significant concern. The proposed access arrangements to serve the site are considered acceptable subject to conditions requiring details of the footpath and the provision of a crossing point to allow suitable access for those that wish to use the bus stops of Topsham Road. A condition ensuring provision of secure covered cycle parking is also recommended. With these conditions in place it is considered that this site, which is in close proximity to Topsham District Centre, can be considered a sustainable location for development. Detailed matters relating to the internal layout of the development and vehicle/cycle parking provision will be addressed at reserved matters stage.

Affordable Housing

There have been recent changes to the National Planning Policy Framework (NPPF) in relation to affordable housing provision which have resulted in conflict with the Planning Practice Guidance (PPG). When submitted the scheme, which seeks consent for 7 dwellings, would have been clearly below the threshold of 10 dwellings (and could have

been conditioned to ensure the floor area of the dwellings did not exceed 1000m²). However, the revised NPPF (updated on 19 February 2019) introduces a new threshold trigger of 0.5 hectares, which this site (at 0.6 hectares) is above. Discussions have been held with the applicant, who have agreed to pay an off-site financial contribution for affordable housing (in accordance with the Council requirements). Whilst on-site provision would normally be expected, it is considered that the timing of the changes to the NPPF in relation to this application and the resulting conflict between the NPPF and the PPG, constitute exceptional circumstances that justify accepting a financial contribution in this case.

Other matters

The scale, layout, appearance and landscaping of the proposed development are all reserved for subsequent approval. Based on the character of the surroundings, size of the site, and the juxtaposition of surrounding buildings, it is considered that the site would be capable of accommodating 7 dwellings that meet the required internal/external amenity standards and achieve an acceptable relationship to adjoining properties without any significant adverse impact upon the residential amenity of those properties. The ecological impact of the scheme is considered acceptable; whilst the new access would require the removal of the hedgerow along the site frontage, the applicants have agreed to replace this with a newly planted Devon hedge bank. Furthermore the scheme represents an opportunity to enhance the ecological interest of the site through landscaping and the incorporation of integral bat/bird bricks within the design of the houses.

Financial Considerations

The proposal is CIL liable in respect of any dwellings constructed on the site. The CIL additional information form and the CIL Assumption of Liability form have been submitted. However, 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.

Habitats Regulations Assessment

A Habitat Regulations Assessment has been undertaken. This concludes that whilst the development has the potential for have a significant effect on a European site, the impacts of the development can be mitigated through top-slicing receipts from CIL to contribute towards the implementation of measures in the South East Devon European Site Mitigation Strategy.

S106

A S106 agreement will be required to secure the affordable housing financial contribution.

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 that the development would not have any severe transport impacts and is sustainably located, the contribution that this site would make to housing delivery and the provision of self-build plots, 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

Approval subject to conditions and a S106 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 rule 2 of the Town and Country Planning Act 1990 as amended.

2. Details of the 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: 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, the development hereby permitted shall be carried out in accordance with drawing no. 48030-GA-001 and 246:1:01 G (in respect of the access arrangements and associated replacement Devon hedge bank contained within the red lines).

Reason - To ensure that the means of access to serve the development (which is not a reserved matter) are acceptable from a highway safety perspective.

4. Pre-commencement condition: Prior to commencement of the development, details shall be submitted to the Local Planning Authority of secure covered cycle parking provision for the development. Development shall not be commenced until such details have been agreed in writing by the Local Planning Authority, and prior to occupation the cycle parking shall be provided in accordance with the submitted details.

Reason: To provide adequate facilities for sustainable transport.

5. Pre-commencement condition: No part of the development hereby approved shall be commenced until details of the footway adjacent to the site (on Newcourt Road) and crossing point on Newcourt Road, have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

Reason: To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and policy CP9 of the ECC Core Strategy.

6. 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: 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.

7. 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 building(s) 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: 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.

8. 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: In the interests of residential amenity

9. Pre-commencement condition: Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.

Reason: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

10. Pre-commencement condition: Before commencement 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.

11. No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8 am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

12. The development shall not be carried out otherwise than in accordance with a surface water drainage scheme, which shall include details of the means of attenuation and disposal of surface water from the site, including through the use of sustainable drainage systems. Details of the scheme, a timetable for its implementation and details of its future management, shall be in general compliance with Drainage Strategy Statement – Rev A dated 10/12/18, and shall be submitted to and approved in writing by the LPA prior to the commencement of development. The scheme shall be implemented in accordance with the approved details and timetable for implementation.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

13. Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

Informatives:

1) 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 Area (SPA), the Exe Estuary, which is a designated European site. 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).

2) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie 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.

4) 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 negotiated amendments to the application to enable the grant of planning permission

5) The submitted site plan (246:1:01 G) is indicative except in so far as it shows the access arrangements and it should not be assumed to show an acceptable layout.

5) The applicant's attention is drawn to the requirements of Network Rail set out in their emailed communication dated 16 October 2018.

6) The applicant's attention is drawn to the requirements of South West Water set out in their emailed communication dated 27 September 2018.