

Planning Committee Report - 20/0437/FUL

1.0

Application Number: 20/0437/FUL

Applicant name: Strongvox Homes

Proposal: Residential development of 27 dwellings (including 35% affordable housing), access from Newcourt Road, public open space and associated works.

Site address: Land to the North East of Newcourt Road, Topsham, Exeter.

Registration Date: 02/04/2020

Web-link to application, drawings/plans:

<http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q8472WHBH2H00>

Case Officer: Michael Higgins

Ward Members: Cllrs Leadbetter, Newby and Sparkes

REASON APPLICATION IS GOING TO COMMITTEE: Non-delegated.

2.0

Summary of Recommendation:

DELEGATE to GRANT permission subject to completion of a S106 Agreement relating to matters identified and subject to conditions as set out in report, but with secondary recommendation to REFUSE permission in the event the S106 Agreement is not completed within the requisite timeframe for the reason set out below.

3.0

Reason for the recommendation: as set out in Section 18 at end

- Absence of 5 year land supply
- Para 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact.
- The proposal is not considered to be of any significant harm to neighbouring residential amenity.
- There are no material considerations which it is considered would warrant refusal of this application

4.0

Table of key planning issues

Issue	Conclusion
Principle of development	In context of lack of 5 year housing supply principle considered acceptable notwithstanding landscape setting policy.

Affordable Housing	Provision meets requirement of relevant policy
Access/Impact on Local Highways and parking provision	The Local Highway Authority has confirmed that these issues are acceptable, subject to contributions towards sustainable travel measures in the area and a Traffic Regulation Order (TRO) to extend the 20mph zone into the development, and conditions including one to secure a Travel Plan.
Scale, design, impact on character and appearance	Design is considered to be appropriate in context of prevailing character of existing development in the locality
Impact on Heritage Assets	No significant heritage assets impact
Impact on Trees and Biodiversity	Hedgerows retained, scheme incorporates appropriate mitigation and enhancement
Flood Risk and Surface Water Management	Following the provision of revised information the proposed approach is considered acceptable.
Sustainable Construction and Energy Conservation	Appropriate standard to be secured through condition
Economic benefits	Affordable housing, open space, contribution to enhances GP service provision, and jobs in construction related industries
CIL/S106	CIL generated and S106 to secure relevant benefits identified above.

5.0 Description of Site

The application site comprises a 1.01 hectare field situated on the north side of Newcourt Road between it and the Exeter to Exmouth branch railway line. The site slopes slightly down from the railway line to Newcourt Road and has hedgerows forming the site boundaries.

Newcourt Road itself comprises a mixture of ribbon development comprising mainly semi-detached dwelling on both sides of the first stretch extending out from Topsham interspersed with agricultural fields before a change to more ribbon development of principally detached properties on the southern side of the road. The field between the site and existing houses on Newcourt Road also has outline approval for residential development.

6.0 Description of Development

The proposal relates to the development of this field to provide 27 dwellings comprising a mix of 1, 2, 3, 4 and 5 bed units arranged either side of a new road leading off Newcourt Road at approximately the midpoint of the site frontage. Alongside the road a central open space will be created with dwellings arranged around it creating a focal point for the development. The existing hedgerow along the site frontage will be removed as part of the formation of the site access and associated visibility splays.

7.0 Supporting information provided by applicant

The application is accompanied by the following supporting information:

- Planning Statement
- Design & Access Statement
- Transport Statement
- Ecological Assessment
- Biodiversity Management and Enhancement Plan (BMEP)
- Method Statement for a Programme of Archaeological Work
- Flood Risk Assessment & Drainage Strategy Report
- Arboricultural Impact Assessment
- Lighting Impact Assessment
- Acoustic Design Statement
- Phase 1 Geo-environmental Assessment
- Phase 2 Geotechnical and Geo-environmental Assessment

8.0 Relevant Planning History

19/0543/OUT - Construction of up to 23 residential dwellings (including market, affordable and age-restricted dwellings), provision of access off Newcourt Road, open space and associated works (outline application with details of access only for approval with scale, layout, appearance and landscaping all reserved for future consideration). Approved 23/12/2019 subject to a S106 Agreement relating to affordable housing.

The following applications on adjoining land are also considered relevant:

18/1120/OUT – 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). This application was considered by the Planning Committee at its' meeting on the 24th June 2019 The Committee resolved to grant conditional planning permission subject to a S106 Agreement relating to affordable housing. This was completed and the approval was issued on 18th December 2019.

20/0121/RES - Submission of all reserved matters (appearance, landscape, layout and scale), pursuant to Planning Permission Reference 18/1120/OUT for development of site to provide 7 residential units (3 open market and 4 self-build plots) with access from Newcourt Road. This application is currently under consideration.

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 07/03/2018. Subsequently allowed on appeal by Planning Inspector's decision letter dated 14/01/2019.

9.0 List of Constraints

Zone of Influence of SPA's
Landscape Setting
Adjacent branch railway line

10.0 Consultations

All consultee responses can be viewed in full on the Council's website.

Devon & Somerset Fire & Rescue Service – No objection in principle. Identify services need for a Fire Hydrant and state that detailed requirements will be picked up at Building Regulations stage. Subsequent to receipt of these comments the applicant has provided a further drawing demonstrating that the layout provides access and turning for a fire appliance as well as Refuse vehicles.

Royal Devon and Exeter NHS Foundation Trust - submitted a lengthy consultation response setting out the background and justification behind a request for a S106 financial contribution of £34,813 towards the cost of providing capacity for the Trust to maintain service delivery during the first year of occupation of each unit in the development.

Torbay and South Devon NHS Foundation Trust – Respond as follows (It should be noted that in the Methodology section of the response below the application number referenced is incorrect) -

“The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other->

county-policy-and-guidance) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that the Exeter City Council Core Strategy Document 2012 under “Meeting the Communities Needs” states that:

The objectives of the Sustainable Community Strategy and other strategies and programmes can be delivered, at least in part, through developer contributions sought for social and community infrastructure, including education/skills, health, culture, sports and leisure facilities.

Examples of areas where developer contributions could facilitate change and enhancement include:

.....improving access to health and social care (Exeter Sustainable Community Strategy/Exeter Primary Care Trust Estate Strategy/Royal Devon and Exeter (NHS) Trust Building Programme);

The CCG’s concern is that Topsham Surgery in the Topsham area is already over capacity within its existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The surgery already have 10,943 patients registered between them and this new development will increase the local population by a further 60 to 70 persons.

Taking this into account and drawing upon the document “*Devon Health Contributions Approach: GP Provision document*” which was agreed by NHS England and Devon County Council, the following calculation has been made:

Methodology for Application 20/0321/FUL

1. Residential development of 27 dwellings (including 35% affordable housing)
2. This development is in the catchment of the Topsham Surgery which has a total capacity for 10,411 patients.
3. The current patient list size is 10,943 which is already over capacity by 532 patients or at 105% of capability.
4. The increased population from this development = 62
 - a. No of dwellings * Average occupancy rate = population increase
 - b. $27 * 2.28 = 62$
5. The new GP List size will be 11,005 which is over capacity by 594

- a. Current GP patient list + Population increase = Expected patient list size
- b. $10,943 + 62 = 11,005$ (594 over capacity)
- c. *If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6*
- 6. Additional space required = 4.92m^2
 - a. The expected patient list size, for this size practice = 0.08m^2
 - b. Population increase * space requirement per patient = total space (m^2) required
 - c. $62 * 0.08 = 4.92\text{m}^2$
- 7. Total contribution required = **£11,322**
 - a. Total space (m^2) required * premises cost = final contribution calculation
 - b. $4.92\text{m}^2 * £2299 = £11,322$ (£419 per dwelling).

Could you please acknowledge the CCG's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and it will form part of any future s106 Agreement with the Developers."

Environmental Health – Recommends conditions relating to a CEMP, land contamination, noise mitigation and external lighting.

ECC Principle Project Manager (Heritage) – Comments "A written scheme of archaeological work has been submitted with the planning application documents. So long as this can be approved as part of an eventual planning permission and listed in the decision notice then there is no need for a pre-commencement condition. No other supporting info is required as there are no archaeological constraints on the principle or layout of the proposed development."

Police Designing Out Crime Officer – No response received.

DCC Education (Children's Services) – Have confirmed that given the fall-back position of a valid consent on this site for 23 dwellings (ref no. 19/0543/OUT) on which no S106 education contribution was secured they are not requesting an education contribution in connection with this current application.

Natural England – Identify need to secure mitigation of potential impact on protected European sites, and refer to standing advice relating to impact on protected species and biodiversity gain.

Network Rail – No objection but recommend guidance for applicant to follow regarding protection of the railway asset.

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

“At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy CP12 (Flood Risk) of Exeter City Council's Core Strategy (2012) which requires all developments to mitigate against flood risk and utilise sustainable drainage systems, where feasible and practical. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.”

Following submission of further information a revised consultation response has been received with the following recommendation –

“Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- 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. 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: 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.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.”

County Head of Planning, Transportation and Environment (Highways) –

The development will result in an increase of 6 trip during peak hours compared to the previously permitted development. This will increase traffic on Newcourt Road raising some concern over private vehicle reliance, however the applicant is willing to pay a s106 contribution of £250 per dwelling towards sustainable travel measures in the area which mitigates this concern. A footpath will be provided along the site frontage that will link with the footpath that will be provided on the neighbouring site. In addition Newcourt Road will be widened to

allow two vehicles to pass. These works will be subject to s278/38 agreements and should be secured by condition. Overall the access to the site and internal road network is acceptable. A contribution of £3,000 is required for a TRO to extend the existing 20mph zone into the development. The layout includes sufficient parking provision for residents and visitors. Cycle parking should be conditioned to ensure compliance with the standards in the Sustainable Transport SPD. A Travel Plan should also be secured by condition. Blacktop and/or imprint must be used on roads to be adopted by the Local Highway Authority.

11.0 Representations

23 letters of representation have been received, including one from the Topsham Society and Exeter Cycling Campaign, raising the following issues:

- Newcourt Road is a no-through road which is unsuitable to accommodate additional traffic, including construction traffic, especially due to the bottleneck at the Denver Road end
- Impact on road safety – increased traffic. Narrow road, lack of pavements, poor visibility – dangerous to cyclists/pedestrians – well used, including children walking to school
- More traffic on Topsham Road since Old Rydon Lane made partly one-way
- Loss of green space (fields)/Topsham Gap – contrary to Development Plan
- Question validity of traffic surveys/assumptions
- Lack of school places to accommodate additional pupils
- Lack of infrastructure capacity – health, education, policing
- Sustainability – use of renewables
- Wildlife impacts/protected species – biodiversity enhancement opportunities
- Loss of trees/hedgerows
- Poor architecture – not in character with area nor exemplar, no Design Review process
- Lack of adequate parking provision
- Noise disturbance/pollution, especially during construction phase
- Design car dominated – quantity of parking not encouraging sustainable modes of transport. Should demonstrate priority to cyclists/pedestrians
- Lack of open space
- Junction design with Newcourt Road should have a raised table
- Developer should pay for shared use pedestrian/cycle path from development to junction with Topsham Road
- Cycle storage provision
- Nature and use of Newcourt Road changed considerably over years with developments nearby

- Overdevelopment, height of buildings
- Loss of agricultural land
- Drainage/sewerage arrangements and capacity
- Planners failed in dealing with previous applications in locality creating lack of faith in ability to assess this proposal
- Changes from previous approval in terms of number of dwellings and nature of them exacerbate problems identified.

12.0 Relevant Policies

Government Guidance

National Planning Policy Framework (NPPF) (February 2019)
Planning Practice Guidance (PPG)

Core Strategy (Adopted 21 February 2012)

Core Strategy Objectives

CP1 – Spatial Strategy

CP3 – Housing

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP10 – Meeting Community Needs

CP11 – Pollution

CP12 – Flood Risk

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development

AP2 – Sequential Approach

H1 – Search Sequence

H2 – Location Priorities

H3 – Housing Sites

H5 – Diversity of Housing

H7 – Housing for Disabled People

L4 – Provision of Playing Pitches

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
LS4 – Nature Conservation
EN2 – Contaminated Land
EN3 – Air and Water Quality
EN4 – Flood Risk
EN5 – Noise
EN6 – Renewable Energy
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 Development
DG7 – Crime Prevention and Safety

Devon Waste Plan 2011 – 2031 (Adopted 11 December 2014) (Devon County Council)

W4 – Waste Prevention
W21 – Making Provision for Waste Management

Development Delivery Development Plan Document (Publication Version, July 2015)

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

DD1 – Sustainable Development
DD8 – Housing on Unallocated Sites
DD9 – Accessible, Adaptable and Wheelchair User Dwellings
DD13 – Residential Amenity
DD19 – Safeguarding Railway Land and Former Railway Land
DD20 – Accessibility and Sustainable Movement
DD21 – Parking
DD22 – Open Space, Allotments, and Sport and Recreation Provision
DD25 – Design Principles
DD26 – Designing out Crime
DD28 – Conserving and Managing Heritage Assets
DD29 – Protection of Landscape Setting Areas
DD30 – Green Infrastructure
DD31 – Biodiversity
DD33 – Flood Risk
DD34 – Pollution and Contaminated Land

Exeter City Council Supplementary Planning Documents

Affordable Housing SPD (April 2014)
Archaeology and Development SPD (Nov 2004)
Sustainable Transport SPD (March 2013)

Planning Obligations SPD (April 2014)
Public Open Space SPD (Sept 2005)
Residential Design Guide SPD (Sept 2010)
Trees and Development SPD (Sept 2009)

Other documents

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

Devon County Council Supplementary Planning Documents

Minerals and Waste – not just County Matters Part 1: Waste Management and Infrastructure SPD (July 2015)

13.0 Human rights

Article 6 - Right to a fair trial.
Article 8 - Right to respect for private and family life and home.
The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

14.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

- New footpath to site frontage as part of access formation on a section of Newcourt Road where none presently exists.
- Health Care – Contribution secured towards enhanced GP services provision.
- Wheelchair accessible ground floor flat as part of affordable housing provision.

15.0 Financial benefits

Material considerations

Affordable housing, 9 dwellings and commuted sum of £60,322.61 for part unit of 35% requirement.

Quantum of greenspace – approx. 900sq m (excluding new hedgerow frontage)

Contributions to health care of £11,322 towards enhanced GP services provision.

£250 per dwelling towards sustainable travel measures in the area.

£3,000 Traffic Regulation Order to extend 20mph zone into the development.

Proposal will create jobs in construction and related industries.

Non material considerations

CIL contributions

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable.

The rate at which CIL is charged for this development is £119.92 per sq. metre plus new index linking. Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development. Full details of current charges are on the Council's website. The rate per sq. m granted for 2020 for this development is £119.29.

New Homes Bonus.

16.0 Planning Assessment

The key issues are:

1. The Principle of the Proposed Development
2. Affordable Housing
3. Access/Impact on Local Highways and parking provision
4. Scale, design, impact on character and appearance
5. Impact on Heritage Assets
6. Impact on Trees and Biodiversity
7. Flood Risk and Surface Water Management
8. Sustainable Construction and Energy Conservation

1. The Principle of the Proposed Development

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. Although this has improved slightly recently the Council is still significantly short of being able to demonstrate a 5 year housing land supply. 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. These comments are considered valid and as such it is equally 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 significant 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 Hooper.”

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 68. 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 and medium/low respectively, 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 in that case 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."

In light of the early stage of the GESP, which has not yet been subject to public consultation in respect of potential site allocations, it is not considered that a refusal of the current proposal on the grounds of prematurity could be sustained. It is necessary therefore to consider the proposal in the context of the adopted Development Plan and the Council's position in respect of its 5 year housing land supply.

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

2. Affordable Housing

The application comprises 27 units in total and the affordable housing requirement set out in policy CP7 is for 35% affordable (split 70% social rent/30% intermediate). This equates to 9.45 units, with part units to be dealt with by way of financial contribution as set out in the Council's Affordable Housing SPD. The relevant financial contribution in respect of the 0.45 of a unit calculated in accordance with the SPD is £ 60,322.61. The submitted plans depict 9 units (a mix of 1/2 bed flats, 2/3 bed houses) split 80/20% between social rent (the 7 flats, one of which will be provided as a wheelchair accessible unit) and intermediate (the 2 houses). The affordable housing and associated financial contribution will be secured through S106 obligations.

3. Access/Impact on Local Highways and parking provision

The access to the development is provided via a new junction off Newcourt Road in accordance with details that were previously approved as part of the extant outline approval ref 19/0543/OUT. Although the existing hedgerow fronting Newcourt Road will be removed as part of the provision of the access and associated visibility splays a replacement hedgerow will be provided within the site setback behind the new footpath running along the site frontage. This section of Newcourt Road currently has no footpath, so this provision constitutes an improvement in terms of highway safety for all pedestrians using this section of the road.

The application will increase the number of units on the site by 4 dwellings compared to the previously permitted outline application, resulting in a slight increase in traffic on Newcourt Road. The Local Highways Authority has requested a contribution of £250 per dwelling toward sustainable travel measures to mitigate the additional impact and on balance considers the traffic impact to be insignificant. Paragraph 109 of the NPPF states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Officers consider there are no highways grounds to refuse the application, as the impacts will not be severe and only constitute a slight increase over what was previously permitted. Facilities will also be provided to ensure safe access is provided for all users.

A total of 67 parking spaces are provided to serve the development (62 residents and 5 visitor spaces). The parking to serve individual properties is predominantly on-plot through a combination of garages and driveways. Those properties without garages are provided with separate cycle storage provision in the form of

sheds within the rear gardens of the properties. The flats are provided with a communal refuse/cycle storage facility.

The Local Highways Authority has recommended conditions which should be added should the application be permitted.

4. Scale, design, impact on character and appearance

The layout has been designed with the central open space as focal point of the development with dwellings arranged around it facing over it provided a high degree of natural surveillance. Parking provided predominantly on-plot ensures that the public realm is not highway dominated and the use of differing road materials within private drives helps to create visual variety and break-up the hard surfaces. The majority of buildings are 2 storey in height which reflects the prevailing character of existing dwellings in the locality. The flats are contained within a 2.5 storey building located to the rear of the site. External materials comprise a mix of brick and render with slate/tile roofs apart from a single thatch roof property as an interesting variation on the road into the development facing the open space. The dwellings themselves are of traditional pitched roof design. Overall the development is considered visually acceptable and appropriate in the context of the character and appearance of the locality generally.

The dwellings have been located appropriate distances off the site boundaries and therefore the impact on the amenity of surrounding properties is considered acceptable. Setting the buildings an appropriate and fair distance off the boundary with the adjoining site (which has outline planning permission) provides the opportunity, with a similar approach to the design of the detailed layout of that site, to achieve appropriate privacy distances between dwellings.

Within the site itself, negotiations have secured revised plans that have satisfactorily addressed some minor concerns about the relationship between dwellings and the provision of adequate external amenity spaces. The dwellings are all considered acceptable in terms of both internal and external space standards.

5. Impact on Heritage Assets

The submitted method statement for a programme of archaeological work has been considered and the Heritage Officer is satisfied on the basis of this that there are no archaeological constraints on the principle or layout of the proposed development. There are no other heritage assets that will be affected by the proposal and therefore in this respect the scheme is considered acceptable provided it is implemented in accordance with the submitted method statement.

6. Impact on Trees and Biodiversity

Aside from the boundary hedgerows the site does not contain any significant trees or landscaping features. Whilst the hedgerow fronting Newcourt Road will be removed as part of the new access, a replacement hedgerow is proposed on the development side of the new access/footpath. The other hedgerows forming the boundaries of the site will be retained as part of the development with additional native planting to fill in any gaps, whilst a new hedgerow is proposed along the railway boundary inside a 2.4m high acoustic fence.

A Biodiversity Management and Enhancement Plan (BMEP) has been submitted in support of the application which identifies measures to both protect and enhance biodiversity on the site, measures include a total of 27 bat/bird boxes integrated within the buildings, dormice boxes to be agreed with Natural England as part of the statutory licensing process. The implementation of the development in accordance with the submitted BMEP can be secured through an appropriate condition.

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature 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. 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.

7. Flood Risk and Surface Water Management

The revised submitted Flood Risk Assessment (FRA) and Drainage Strategy Report concludes that the site is located within Flood Zone 1 and is therefore a very low risk of flooding from rivers or sea and not at risk from surface water flooding. Therefore the site is considered suitable for residential development in this respect.

The site is generally unsuitable for the use of soakaways due to ground conditions and therefore it is proposed to discharge surface water runoff from the site to the existing surface water sewer in Newcourt Road. The discharge will be controlled to correspond to the existing greenfield scenario utilising storm water attenuation tanks and limited areas of permeable paving on communal driveways. It states that this strategy is the same as that approved in the previous outline application granted on the site and has been agreed with South West Water.

DCC as the LLFA objected to the initial FRA and Drainage Strategy. Following negotiations revised information, including a revised FRA and Drainage Strategy, has been submitted. Based on this revised information the LLFA have confirmed that the approach is now acceptable and have withdrawn their initial objection and recommended a condition relating to the details to manage surface water during the construction phase.

8. Sustainable Construction and Energy Conservation

In line with Core Strategy policy a condition is proposed relating to sustainable construction to achieve a betterment in relation to the Building Regulations.

CIL/S106

The development is CIL liable and a S106 agreement will be required to secure the affordable housing provision (35% of the total number of dwellings to be provided, including financial contribution in lieu of part unit), open space (provision, public access and maintenance), and a financial contribution towards enhanced GP facilities/provision in the locality.

The request from the Royal Devon and Exeter NHS Foundation Trust for a financial contribution to be secured through a S106 agreement is one of a number of similar requests submitted by the Trust in respect of recent residential applications under consideration by the Council. Officers have responded generically to these requests outlining why it is considered that they are not considered to meet the necessary tests relating to S106 obligations, and consequently are not being sought in connection with these developments.

The development will result in additional population in the locality which will create additional demand for GP services. Given that the existing GP provision in the locality is already at over-capacity the requested S106 financial contribution towards enhanced provision to meet the demand generated by the proposed development is considered justified in terms of the relevant tests to be applied to requested contributions.

17.0 Conclusion

The site already has a valid outline permission for residential development. The Council is still unable to demonstrate a 5 year housing land supply and the proposal will make a contribution towards housing delivery. The development is considered acceptable in terms of its design/amenity and transportation impacts, and sustainable in terms of its location. Therefore, the officer recommendation is one of approval as set out below.

18.0 **RECOMMENDATION** Dual Recommendation as set out below with B) only applying in the event of the failure to complete the S106 Agreement within the prescribed timeframe: -

A) DELEGATE TO CITY DEVELOPMENT MANAGER TO GRANT PERMISSION SUBJECT TO THE COMPLETION OF A LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO SECURE THE FOLLOWING:

- Affordable housing, including financial contribution in lieu of part unit
- Open space provision, maintenance and public access in perpetuity
- Contribution of £11,322 towards enhanced GP facilities/provision in the locality.
- £250 per dwelling towards sustainable travel measures in the area.
- £3,000 Traffic Regulation Order to extend 20mph zone into the development.
- All S106 contributions should be index linked from the date of resolution.

And the following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 1st April, 16th June and 10th July 2020 (including dwg. nos. 0702-101, 0702-102 Rev A, 0702-103 Rev A, 0702-104 Rev A, 0701-105 Rev A, 0702-106 Rev A, 0702-107 Rev A, 0702-108 Rev A, 0702-109 Rev A, 0702-110 Rev A, 0702-111, 0702-112, Rev A, 0702-113, Topsham-C-100_002-A- Proposed Site Sections Rev A, 3274_L_LMP_0_01 Rev H, 3274_L_LMP_3_01 Rev B, 3274_L_LMP_3_02 Rev B, Planting Schedule Rev A, 12952/P05, Garden Areas Schedule, Parking Matrix, 0702-300, 0702-301, 0702-302, 0702-303, 0702-304, 0702-305, 0702-306, 0702-307, 0702-308, 0702-309, 0702-310, 0702-311, 0702-312, 0702-313, 0702-314, 0702-315, 0702-316, 0702-317, 0702-318, 0702-319, 0702-320, and 0702-321) as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.

3) Pre-commencement condition: No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with the details specified in the Arboricultural Impact Assessment Report prepared by Aspect Tree Consultancy ref 05400 AIA 20.03.20 and accompanying drawing no. 05400 TPP 23.03.20. The developer shall maintain such fences to the satisfaction of the

Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

Reason for pre-commencement condition - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

4) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to monitor and control the emission of dust and dirt during construction.
- h) No burning on site during construction or site preparation works.
- i) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the LPA.

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.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

5) 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 for Pre-commencement condition: In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

6) Pre-commencement condition: Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.

Reason for Pre-commencement condition: To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that building operations are carried out in a sustainable manner.

7) 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. 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 and a plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

8) The development hereby approved shall be implemented and maintained strictly in accordance with the submitted Flood Risk Assessment & Drainage Strategy Report dated July 2020 Rev A prepared by Spring Design.

Reason: To ensure that the scheme is implemented in accordance with an agreed framework and drainage strategy in the interests of ensuring that the drainage impacts of the proposal are acceptable and sustainable.

9) 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 with the visual amenity requirements of the area.

10) The development hereby approved shall be implemented in accordance with the provisions and mitigation measures contained within the submitted Ecological Assessment Report Ref 12952_R01_RR-MM and the Biodiversity Management and Enhancement Plan Report Ref 12952_R02c_JP_HM dated 24th March 2020 prepared by Tyler Grange (as updated by the Bat and Bird Box location plan drawing no. 12952/P05 dated July 2020). Thereafter the mitigation measures specified shall be maintained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the scheme is implemented to protect the existing ecological interest of the site through appropriate mitigation and to enhance the ecological value of the site.

11) The development hereby approved shall be implemented in accordance with the submitted 'Method Statement for a programme of Archaeological Work' prepared by AC archaeology report ref no: ACD2231/1/1 dated March 2020.

Reason - To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.

12) All external lighting comprised in the development shall be installed and maintained in accordance with the specifications set out and specified with the Lighting Impact Assessment prepared by Designs for Lighting report ref no: 1409-DFL-LIA-001 Rev D dated 08.07.2020.

Reason - To minimise the potential for light pollution and create an acceptable residential environment for future occupants of the dwellings.

13) None of dwellings comprising plots 9 to 20 shall be occupied until the mitigation measures outlined in Clarke Saunders's Acoustic Design Statement (report ref: AS11066.200326.R2.3, dated 26.0.20), including the specific boundary treatments referred to in paragraphs 4.8.7 and 4.8.8, have been implemented in full and evidence that the mitigation measures have been implemented has been provided to the Local Planning Authority. Mitigation measures shall be maintained thereafter.

Reason - To ensure that a satisfactory environment in terms of residential amenity and protection from noise is created for potential occupants of the properties.

14) In the event of failure of any trees or shrubs, planted in accordance with the landscaping scheme hereby approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be

replaced with such live specimens of such species of such size and in such number as may be approved by 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.

15) If during development contamination not previously identified is found to be present at the site then no further development, unless otherwise agreed in writing with the Local Planning Authority, shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amended investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan, and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy, and the effectiveness of the remediation, shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of the amenity of the occupants of the buildings hereby approved.

16) The dwellings hereby approved shall be designed and built to meet M4 2 of the Building Regulations Access to and Use of Building Approved Document M, 2015 edition.

Reason: To increase choice, independence and longevity of tenure in accordance with Policy CP5 point three of the Exeter Core Strategy.

17) None of the individual dwellings hereby approved shall be occupied until the cycle storage provision to serve that dwelling, as indicate on drawings no's 0702-102 Rev A and 0702-109 Rev A, has been provided and made available for use by the occupant. Thereafter the said cycle storage provision shall be retained for that purpose at all times.

Reason - To ensure that cycle storage facilities are provided to encourage the use of sustainable modes of transport by the future occupants of the properties.

18) No part of the development hereby approved shall be brought into its intended use until the 2.0m footway fronting Newcourt Road, visibility splays, carriageway widening and the vehicular access point as shown on drawing ref. Topsham-C-1300_001-A - S278 General Arrangement Plan 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 Core Strategy (February 2012).

19) No part of the development shall be occupied until a travel plan (including recommendations/arrangements for monitoring and review) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the recommendations of the travel plan shall be implemented, monitored and reviewed in accordance with the approved document, or any amended document subsequently approved in writing by the Local Planning Authority.

Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraph 111 of the NPPF.

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 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 fund 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) 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.

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

4) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

5) The applicant's attention is drawn to the requirements of Network Rail set out in their emailed communication dated 29th May 2020.

**B) REFUSE PERMISSION FOR THE REASONS SET OUT BELOW IF THE
LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND
COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED
BY 7 MARCH 2021 OR SUCH EXTENDED TIME AS AGREED BY THE
CITY DEVELOPMENT MANAGER**