

Planning Committee Report 19/1465/OUT

1.0 Header section for all reports

Application Number: 19/1465/OUT

Applicant name: Burrington Estates Ltd

Proposal: Outline planning application for the construction of up to 24 dwellings (Use Class C3) - Means of access to be determined only (All other matters reserved).

Site address: Land Adjoining Exeter Road, Topsham, Exeter

Registration Date: 21/10/2019

Web Link to application, drawings/plans:

<http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PZQCE0HBLQF00>

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.
Design/layout and amenity standards	Outline – Feasibility sufficient to demonstrate site capable of accommodating proposed development in design and visual terms subject to later consideration of detailed proposals.
Transportation matters, Access and Impact on Local Highways, layout, parking strategy	Traffic generation, access arrangements are acceptable. Detailed layout and parking strategy will be addressed at reserved matters stage. Highway Authority raise no objection subject to suitable conditions.
Affordable Housing	Provision to meet requirement of relevant policy. Secured through S106.
Sustainability/drainage and ecology	Condition to secure CO2 standard, submitted documents demonstrate ecological impact acceptable. Detailed drainage matters addresses by condition.
Impact on Heritage Assets	Only potential impact is from archaeological perspective – conditioned.
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 parcel of land extending to 2.acres in size. The site fronts Exeter Road and is 39 metres wide. The site is bounded to one side by the recent Burrington Homes development and to the other by a golf driving range and associated access road and a single residential property. To the north the site abuts an existing public footpath. The site is currently used for arable agricultural purposes and is essentially featureless apart from the boundary hedgerows.

6.0 Description of Development

Outline planning permission is sought for up to 24 dwellings with all matters apart from the means of access reserved for future consideration. The means of access proposed comprises two vehicular access points from the adjacent residential development, which in turn is accessed from Exeter Road. The indicative feasibility plan which accompanies the application depicts a predominantly linear form of development with an area of open space situated at the front of the site adjoining Exeter Road. Notwithstanding this the detailed layout will be subject to further approval via a 'reserved matters' application.

7.0 Supporting information provided by applicant

The application is accompanied by the following supporting documents –

- Planning Statement
- Design and Access Statement
- Ecological Impact Assessment and Ecological Impact Assessment Addendum
- Summary of Ground Conditions
- Flood Risk Assessment

8.0 Relevant Planning History

There is no planning history relating to the site itself. However, the following history on the adjoining site is considered relevant as access to the proposed site would be gained via this adjoining development. –

14/2066/01 - Phased development of a 60 bed residential care home, 47 assisted living apartments and 55 age restricted dwellings. This application was granted on appeal by Inspector's decision letter dated 27th April 2016 following a Public Inquiry.

17/1106/RES - Reserved matters application (pursuant to outline permission granted on 27th April 2016, ref 14/2066/01) for approval of the layout, scale, appearance and landscaping of the Care Home and Assisted Living Apartments. Approved 03/10/2017.

17/1091/RES - Approval of details for 54 dwellings, public open space, landscaping and associated highways and drainage infrastructure, i.e. for reserved matters of layout, scale, appearance and landscaping (Pursuant to outline planning permission granted on 27th April 2016, reference 14/2066/OUT). Approved 12/12/2017.

19/1376/FUL - Construction of assisted living/extra care accommodation with communal facilities (Use Class C2) and car parking. Approval pending completion of a S106 Agreement.

20/0229/FUL - Construction of a 72-bed care home and associated parking with vehicular access from Bewick Avenue. Approved 10/09/2020.

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.

Environmental Health – Highlights need for noise survey and air quality assessment to identify if any mitigation measures are required which could be secured through conditions, and further conditions relating to land contamination and CEMP.

RSPB – Note ecologists recommendations regarding bird brick but points out that quantum suggested is less than our Residential Design SPD advocates. Therefore suggests a ratio of one bird/bat brick per dwelling should be provided.

Police (ALO) – No objection but makes comments on detailed design matters relating to public open space surveillance, boundary treatments/defensible space, parking locations, and lighting and surveillance of pedestrian routes for consideration at detailed design stage.

DCC (Lead Local Flood Authority – LLFA) – Comment as follow –

“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 and condition –

“Following my previous consultation response FRM/EC/1465/2019, dated 26.08.2020, the applicant has submitted additional information in relation to the

surface water drainage aspects of the above planning application, for which I am grateful.

- Micro Drainage output SW Storage Highway Attenuation dated October 2019

The applicant has proposed a feasible drainage strategy comprising permeable paving and underground attenuation tanks with a restricted discharge into the local sewer network. The applicant should undertake further infiltration testing at the proposed depth and location of the proposed permeable paving. The current infiltration testing was undertaken at 2 m in depth and it is unlikely the permeable paving will extend to this depth. We also recommend that the applicant reads our groundwater monitoring policy details available on our website <https://www.devon.gov.uk/floodriskmanagement/planning-and-development/suds-guidance/>."

Condition –

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) Soakaway test results in the area proposed for permeable paving in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
- (b) A detailed drainage design based upon the approved Surface Water Drainage Strategy Drawing Number 19.489/050 Rev C and the results of the information submitted in relation to (a) above
- (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (e) A plan indicating how exceedance flows will be safely managed at the site.
- (f) Evidence there is agreement in principle from the South West Water.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

SWW – Highlight location of public sewer and restrictions in terms of building in proximity to it. Confirm that potable water supply (drinkable) and foul drainage is available to serve the development.

RD&E NHS Foundation Trust – submitted a lengthy consultation response setting out the background and justification behind a request for a S106 financial contribution of £30,945 (based on 24 dwellings) 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.

DCC (Education) – Comments as follows –

“Devon County Council has considered the application above and would like to provide an education response. This is in accordance with Devon County Council’s Education Infrastructure Plan 2016-2033.

Regarding the above planning application, Devon County Council has identified that a development up to 24 family type dwellings will generate an additional 6 primary pupils and 3.6 secondary pupils which would have a direct impact on the primary and secondary schools in Exeter.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

When factoring in both approved but unimplemented housing developments as well as outstanding local plan allocations we have forecast that the local primary and secondary schools have not got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek contribution towards additional education infrastructure to serve the address of the proposed development.

We have forecast that there is no spare primary capacity to accommodate pupils at the local primary schools and therefore we will request primary education contributions against the 6 pupils expected to be generated from this development. The primary contribution sought would be £96,114 (based on the DfE new build rate of £16,019 per pupil), or £4,004.75 per dwelling. The contributions will be used towards new primary provision to serve Newcourt and surrounding development.

We have forecast that there is no spare secondary capacity to accommodate pupils at the local secondary schools and therefore we will request secondary education contributions against the 3.6 pupils expected to be generated from this development. The secondary contribution sought would be £87,339 (based on the DfE new build rate of £24,261 per pupil), or £3,639.13 per dwelling. The contributions will be used towards new secondary provision at South West Exeter. This new provision will release capacity at existing secondary schools across the city.

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £6,000 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development. These contributions will be used towards new early years provision at Trinity Primary & Nursery School.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015

prices and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.”

County Head of Planning, Transportation and Environment (Highways) –
Comment as follows and recommend conditions and S106 obligations –

“The submitted outline application is for the construction of 24 residential dwellings at the Land adjoining Exeter Road, Topsham, Exeter. This development would essentially form an extension of the residential development adjacent which was granted consent at appeal that is accessed from the priority junction onto Exeter Road and currently on site/partially occupied.

Trip Generation

No transport statement has been submitted with the application. However, the highway authority has used trip rates from trips observed at occupied dwellings at Bewick Avenue, the residential development situated immediately to the east. Applying this to the proposed development gives rise to 12AM peak/14PM peak vehicle trips.

The additional trips onto the highway network are unlikely to have a significant impact on the highway network. The site is located within an area where foot and cycle are a realistic choice for a wide range of journeys. The site has access to public transport services on Exeter Road and is adjacent to a strategic cycle route (NCN2) and therefore, from a transport perspective, this application has to maximise existing infrastructure to discourage the use of the private vehicle.

Access

Vehicular access to the site is proposed across the existing shared use path connecting to Newcourt Road to Exeter Road. Two points of vehicular access are indicated joining the existing residential development to the application site; in addition to being an important sustainable transport route, this link provides an alternative route from Newcourt Road to reach Exeter Road/Topsham (Newcourt Road, in places has no footway). It is therefore essential that an appropriate design for this to maintain a high-quality pedestrian/cycling route is provided.

The layout of the crossing point has been progressed through liaison with DCC and is indicatively shown on *Drawing Number 19.489/002 REV F*. This provides priority to pedestrians and cyclists over motor vehicles and is akin to other schemes around the city. This is acceptable in principle and should be secured via condition. The applicant must apply for a relevant highways act to implement the scheme.

To further enhance sustainability to the site, the applicant has provided two further pedestrian/cycle access points which can be seen on the Indicative site plan (*Drawing Number 9408-PL03C*). One ped/cycle point can be seen towards the bottom of the site, next to plot 1 providing a link to the east and the other is a safeguarded link to the west, between plots 16 and 18. Both of these access points are necessary to promote modal choice, providing pedestrian and cycle connections between the existing residential site to the east and the live application (ECC Planning Ref: 20/0321/FUL) to the west. However, this plan is only indicative and therefore more details are required and hence a condition is recommended.

Internal Roads and layout

Well-designed residential streets are central to sustainable development and therefore the design of the internal road layout must accord with the principles of Manual for Streets and appropriate sustainable design guidance.

The applicant is advised that car parking standards are set out in the Exeter City Residential Design Guide and that secure cycle parking facilities will need to be in accordance with chapter 5 of Exeter City Councils Sustainable Transport Supplementary Planning document. Reflecting the sites proximity to a primary cycle routes these standards should be exceeded.

As an outline application these details are reserved for approval at a later stage. However, to ensure a suitable layout, it is recommended that the applicant liaises with the highway authority prior to any application for reserved matters approval.

Travel Planning

In accordance with paragraph 111 of the NPPF and the Sustainable Transport SPD, the development will be required to have a Travel Plan. Travel Plan should be introduced including details of walking and cycling routes, as well as public transport including maps, timetables, and information about ticket offers. It should also include information about car sharing schemes, car clubs, eco-driving and motorcycle safety. These measures should be encouraged to continue the promotion of non-car-based travel.

Summary

In summary, it is considered that this standalone application is not considered a severe impact on the highway. Much emphasis has been put on the accessibility

of the site and its relation to adjacent sites; it is believed that the site has maximised permeability is acceptable subject to appropriate conditions.”

Principle Project Manager (Heritage) – Comments as follows –

“As discussed, and as per the adjoining site, due to the known presence of Roman remains in particular - within the adjoining site, directly across Exeter Road from the present site, and on the SW side of Exeter Road from Aldi down to the Topsham School - there is the potential for the present site to contain remains as well.

As the impact of development on such remains is a material planning consideration, a basic level of survey information on whether or not such remains are present on the current site should be provided as supporting information with this application, before it is determined. This is in case the presence of such remains has an effect on the likely layout of the proposed development.

As a first stage, a geophysical survey (a magnetometer survey of the whole site) should be undertaken and the results provided. If the results show remains that have the potential to influence the intended layout of the development then these should then be tested by targeted archaeological trial trenching (site evaluation in NPPF para 189 parlance) with the results of this being provided before determination of the application. If however it does not show any potential remains, or only those that appear unlikely to affect the layout, then these can be investigated and recorded further as a condition of a planning permission. Alternatively, a written scheme setting out the work to be undertaken can be provided and approved as part of the application documentation, thus negating the need for a pre-commencement condition.

Please can you ask for a geophysical survey to be undertaken and the results provided; I will then be able to advise further. There is no need in this instance for a desk based assessment or heritage statement to be provided, as it is not going to provide any more information than we have already.”

11.0 Representations

17 letters of objection have been received (including representations from the Topsham Society and Exeter Cycling Campaign) raising the following issues –

- Access – noise/disturbance to existing residents, safety implications (crossing cycle path) for cyclists/pedestrians (need for ped/cycle priority)
- Impact of access on hedgerow/wildlife – 2 points of access
- Lack of dropped curbs – wheelchair accessibility
- Further increased traffic congestion/road widths/access onto main road
- More noise/air pollution

- Construction access arrangements, adequacy of roads and disturbance
- On-street parking/lack of parking provision
- Cycle parking – no reference to provision
- Access should be direct from Exeter Road
- Overdevelopment – loss of gap/green wedge
- Impact on wildlife, flora and fauna generally
- Loss of agricultural land
- Impact on social infrastructure e.g. schools/doctors surgeries
- If approved should be 100% affordable housing
- Proximity to golf practice range – potential impact on residents
- Lighting/golf balls – need for mitigation by the housing scheme.

12.0 Relevant Policies

Central Government Guidance

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

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
CP17 – Design and Local Distinctiveness
CP18 – Infrastructure

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
LS4 – Local Nature Conservation Designations
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

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):-

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

DD9 - Housing on unallocated sites
DD21 - Accessibility and sustainable movement
DD30 - Protection of landscape setting areas

Exeter City Council Supplementary Planning Documents

Planning Obligations SPD
Affordable Housing SPD
Sustainable Transport SPD
Trees in Relation to Development SPD
Archaeology and Development SPD
Public Open Space SPD (Sept 2005)
Residential Design Guide SPD (Sept 2010)

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.

15.0 Financial benefits

Material considerations

Affordable housing, 35% of total number of units achieved.

Quantum of greenspace Minimum 10% of site area – to be confirmed through reserved matters.

Education contributions

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 residential £119.29
New Homes Bonus

16.0 Planning Assessment

There are a number of determined applications within close proximity to the site which are considered relevant material to the consideration of the acceptability of this development in principle, namely 14/2066/01 referred to in the site history above, and more recently 17/1148/OUT which is referred to below. Aside from the principle of the development the main considerations relate to detailed matters in respect of design/layout/amenity standards, transportation matters, affordable housing, and sustainability/drainage/ecology matters.

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. During this relatively 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 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 22 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 forming part of site no 85. The assessment of this site concludes that it does make a contribution to the visual amenity of the urban fringe, but has limited impact in views both of, and from the site. In terms of visual value and susceptibility the site is evaluated as being medium, with no distinct features other than the hedge site boundaries. It is also identified as being of medium visual sensitivity. The application site only forms part of site 85 as assessed, forming a relatively narrow field directly abutting recent residential development.

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 medium and in the context of the character of the immediate vicinity of the site 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.

Design/layout and amenity standards

The site is narrow and featureless apart from the boundary hedgerows. Although the layout, scale and appearance of the development is reserved for subsequent approval a feasibility plan has been submitted in support of the application. Consent is sought for up to 24 dwellings and the submitted feasibility layout is considered to provide sufficient information to conclude that the site is capable of accommodating the proposed quantum of development in manner that could be visually acceptable and provide adequate private amenity space for the potential occupants of the dwellings along with an appropriate level of public open space.

Transportation matters, Access and Impact on Local Highways, layout, parking strategy

Although the exact layout, type of dwellings And associated parking arrangements are all reserved for subsequent approval the proposed means of access to serve the development is something for which approval is sought as part of this application. The submitted proposal seeks permission for access to the development to be via the road network of the recently constructed adjoining housing site that is in turn served by a junction with Exeter Road. This adjoining development was constructed by the same developer, and the two connections proposed would link to Dunlins Walk and Plover Close which in turn lead to Bewick Avenue and the junction with Exeter Road. The two access points would allow the new development to be notionally split into two cul-de-sacs and thereby dispersing the vehicles associated with the new housing through the development. These two new access points involve crossing of the pedestrian/cycle path provided as part of the adjoining development and negotiations have taken place with the Highway Authority to ensure the details of these junctions, along with adequate visibility splays are provided. The design includes ensuring ease of access for all users of the combined foot/cycle path across the two new junctions having regard to the public sector equality duty.

As can be seen from the consultation response above the Highway Authority have given consideration to the traffic generation of the scheme and its impacts

on the highway network, access arrangements, parking provision and the sustainable transport credentials of scheme in reaching their recommendation of approval subject to S106 contributions and appropriate conditions. 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.”

The detailed layout/position of the dwellings, and the parking arrangements to serve them will be subject of a separate reserved matters application but the feasibility plan submitted as part of the application provides sufficient comfort that up to 24 dwellings and parking could be accommodated on the site.

Based on the recommendation of the Highway Authority, and assessment of the scheme, Officers consider there are no highways grounds to refuse the application, as the impacts will not be severe and the access proposals incorporate appropriate provision to ensure safe access is provided for all users. Conditions are proposed to cover appropriate matters as raised by the Local Highway Authority.

Affordable Housing

As submitted the proposed intention was to provide a policy compliant level of affordable housing (35%). However, depending upon the outcome of the position in relation to Devon County Council's request for an education contribution the developer has indicated that this would affect the viability of the scheme in terms of providing the required level of affordable housing provision and the 70/30 split between social rented and intermediate forms of affordable housing.

Sustainability/drainage and ecology

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.

The application is accompanied by an Ecological Impact Assessment that examines the potential impact on protected species. This identified the need for

further survey work relating to potential dormouse presence and bat activity. This has subsequently been carried out and the results presented in an Ecological Impact Assessment Addendum. The conclusions of these two documents are that dormice are not present on the site. In respect of other protected species the documents set out mitigation measures to ensure that potential impacts are minimised to the point where no significant residual effects are predicted.

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

In terms of surface water drainage the Lead Local Flood Authority has confirmed no objection to the principle of the approach and have recommended a condition relating to the development of the detailed drainage approach as part of any forthcoming reserved matters application.

Impact on Heritage Assets

As the proposal is only seeking outline planning permission with all matters apart from access reserved for subsequent approval it is considered appropriate for an archaeological survey to be dealt with by way of a suitable condition. Aside from archaeology it is not considered that the proposal would have any significant impact from a heritage asset perspective.

CIL/S106

A S106 agreement will be required to secure the affordable housing provision (35% of the total number of dwellings to be provided), open space (Public access and maintenance).

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. The applicant's agent has disputed the validity of this request. Furthermore, 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.

In their consultation response as Education Authority DCC have highlighted the additional demand for early years, primary and secondary places arising from the development. They have also identified a lack of capacity within the system to meet this additional demand generated by the new housing proposed. Consequently they have requested education contributions be secured through S106 contributions as set out under the consultations section of this report in line with their published methodology.

The applicant's agent has sought Counsel's opinion on this matter and contests the basis of the County's request for such S106 contributions, and its compliance with the relevant legal tests appertaining to S106 contributions. This matter has been passed to the County for their consideration but in the absence of any further consultation response from them revising their position it remains the case that the relevant contributions identified by the Education Authority as a consultee to the City Council on the proposal are required to be secured through S106 contributions to mitigate the impacts arising from the development and make it acceptable in this respect. The proposed heads of terms for the S106 thus reflect DCC education contributions request. The proposed heads of terms for the S106 thus reflect DCC education contributions request.

17.0 Conclusion

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 access arrangements and transportation impacts, and sustainable in terms of its location. In terms of design/visual amenity impact it is considered that in principle the site is capable of accommodating the level of development proposed in a satisfactory manner through a subsequent 'reserved matters' application. 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
- Open space provision, maintenance and public access in perpetuity
- Education contributions – Early Years £6,000, Primary £96,114 and Secondary £87,339.
- All S106 contributions should be index linked from the date of resolution.

And the following conditions:

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

3) In respect of those matters not reserved for later approval the development hereby permitted shall be carried out in accordance with the proposed access scheme shown on drawing no. 19.489/002 Rev F. No part of the development shall be occupied until the proposed raised table access crossing points on the shared use path between Newcourt Road and Exeter Road shown therein have been provided in accordance with further details that shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the means of access to the site are acceptable.

4) **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 a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. 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.

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

provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact. No construction/demolition work shall take place outside the following times: 8am to 6pm (Mondays to Fridays) 8am to 1 pm (Saturdays) nor at any time on Sundays, Bank or Public Holidays.

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

6) Pre-commencement condition: Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan (BMEP) which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The BEMP will be expected to incorporate the measures set out in Section 4 of the submitted Ecological Impact Assessment dated October 2019 prepared by EAD Ecology. The development shall be implemented and maintained in accordance with the approved Plan and programme of implementation.

Reason for Pre-commencement condition: In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

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 buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

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

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.

Reason for Pre-commencement condition: In the interests of the residential amenities of the potential occupants of the properties.

9) Pre-commencement condition - Prior to the commencement of the development a scheme for the mitigation/reduction of emissions to air from vehicular traffic generated by the proposed housing, based on an assessment of the quantum of those emissions, shall be submitted to and be approved in writing

by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed mitigation measures and timescale.

Reason for Pre-commencement condition: To ensure that the impact of vehicle emissions associated with the development is reduced in the interests of air quality.

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

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

11) Pre-commencement condition: The development hereby permitted shall not commence until a Standard Assessment Procedure (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 has been submitted to and approved by the local planning authority. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of completion of any dwelling a report from a suitably qualified consultant to demonstrate compliance with this condition will be submitted to and approved in writing by the local planning authority.

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

12) 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.

13) **Pre-commencement condition:** Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) Soakaway test results in the area proposed for permeable paving in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
- (b) A detailed drainage design based upon the approved Surface Water Drainage Strategy Drawing Number 19.489/050 Rev C and the results of the information submitted in relation to (a) above
- (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (e) A plan indicating how exceedance flows will be safely managed at the site.
- (f) Evidence there is agreement in principle from the South West Water.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.

Reason for pre-commencement condition: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The condition should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign/unnecessary delays during construction when site layout is fixed.

14) Any reserved matters application submitted pursuant to the outline consent hereby approved shall incorporate within the layout a pedestrian/cycle path to the boundary of the adjoining land to both the west and east of the application site at points to be agreed by the Local Planning Authority in consultation with the Local Highway Authority as part of the consideration of the reserved matters application. The said pedestrian/cycle connection points shall thereafter be constructed up to the boundary of the applicant's land ownership prior to the first occupation of any dwelling contained within the development in respect of the connection to the east, and prior to the 5th occupation in respect of the connection to the west, or such other trigger point as shall be agreed in writing by the Local Planning Authority.

Reason: To ensure that the opportunity to provide a pedestrian and cycle connection between the site and adjoining land is secured in the interests of permeability and facilitation of the use of sustainable modes of transport in accordance with policy CP9 of the Council's Adopted Core Strategy.

15) 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.

16) In the event of failure of any trees or shrubs, planted in accordance with any scheme 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.

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

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

18) 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.

19) Prior to the first occupation or use of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: In the interests of biodiversity and good design in accordance with Policy CP16 of the Core Strategy, Policies LS4 and DG1 of the Local Plan First Review and paragraphs 58, 109 and 118 of the NPPF.

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

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) 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.

4) 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).

5) 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.

6) Your attention is drawn to the consultation response of South West Water in terms of protection of their assets and the presence of a public sewer within the site.

7) Drawing no. 9408-PL03C dated 14.10.2019 entitled 'Indicative Site Layout' is not hereby approved and has been treated as a feasibility plan only and therefore it should not be assumed that the layout depicted on this drawing would be considered acceptable at reserved matters stage without further negotiation.

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 12th APRIL 2021 OR SUCH EXTENDED TIME AS AGREED BY THE SERVICE LEAD - CITY DEVELOPMENT

In the absence of a Section 106 legal agreement in terms that are satisfactory to the Local Planning Authority being completed within an appropriate timescale, and which makes provision for the following matters –

- Affordable Housing
- Open space provision, maintenance and public access in perpetuity
- Education contributions

The proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 3, 6 and 10, policies CP7, CP10, and CP18, Exeter Local Plan First Review 1995-2011 saved policies AP1, and DG5, and Exeter City Council Affordable Housing Supplementary Planning Document 2014.