

## **PLANNING COMMITTEE**

Monday 27 March 2023

### **Present:-**

Councillor Emma Morse (Chair)  
Councillors Sutton, Asvachin, Bennett, Bialyk, Hannaford, Lights, Mitchell, M, Moore, D,  
Newby and Snow

### **Also Present**

Director of City Development, Service Lead City Development, Principal Project Manager (Development Management) (CC), Planning Solicitor, Principal Highway Development Management Officer and Democratic Services Officer (HB)

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### **MINUTES**

Subject to the amendment of the bullet points at the top of page 13 in respect of Min. No. 4 by the replacement of the word "application" by the word "report" in the first bullet point and the addition of the words "the report" at the beginning of the second and third bullet points, the minutes of the meeting held on 8 February 2023 were taken as read, approved and signed by the Chair as correct.

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### **DECLARATIONS OF INTEREST**

Councillor M. Mitchell declared an interest in Minute No. 22.

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### **PLANNING APPLICATION NO. 22/0537/OUT - LAND AT ST. BRIDGET NURSERY, EXETER**

The Principal Project Manager (Development Management) (CC) presented the outline planning application for the demolition of existing buildings and structures and the phased development of up to 350 dwellings and associated infrastructure and open space. (All matters reserved except access).

The Principal Project Manager (Development Management) (CC) advised that the application had been deferred at the meeting of this Committee on 8 February 2023 to allow for further discussions on potential improvements to two aspects, the junction between Old Rydon Lane and Rydon Lane and a connection through third party land to the Ikea roundabout. Discussions were subsequently held with the applicant and statements were put in on their position on each aspect.

He provided the following updates:-

- in relation to the Rydon Lane junction the intention was to improve the proposed raised table through an increased steepness and use of coloured bricks to make it visually prominent and encourage vehicles to slow down on approach. This junction was considered to be safe and suitable for access as submitted and these alterations were an additional benefit to this part of the development;
- in relation to a connection to the north east to the Ikea roundabout it was again noted that Highways had stated that the access was acceptable as submitted

and the north-east access would not be required for this scheme to be considered acceptable in highway terms;

- a planning note had been submitted by the applicant commenting on this and advising that the costs of creating the access onto third party land was significant due to a ransom strip and would impact on the overall viability of the scheme to meet all Section 106 obligations; and
- the area to the north-east was third party land and fell outside the development land of the red line of this application.

In conclusion, it was considered that the site would provide suitable and safe access, as well as permeability north/south through the provision of cycle and pedestrian links. Whilst a connection to the north east would be beneficial, it involved third party land that was outside the remit of the application and a connection to the site boundary in that area was proposed.

The recommendation following the deferral and further discussions was for approval, subject to a Section 106 Legal Agreement and the conditions as set out in the report.

The following responses were given to Members' queries:-

- there would be a bus route through the estate but the final design was not known at present. Sufficient space would be provided within the estate to accommodate bus movements to include turning areas. A two way flow for buses would not be possible through the entirety of the estate; and
- a condition was included to provide a link to the adjoining undeveloped land

Neil Thorne spoke in support of the application. He raised the following points:-

- the proposal was considered to be as sustainable development in accordance with the National Planning Policy Framework (NPPF) and that the principal of residential development had been confirmed because of its allocation in the Local Plan;
- vehicular access to the north east was not necessary to make the application acceptable, with the application presenting a suitably safe and acceptable access strategy;
- the site was considered accessible, with bus stops on Newcourt Way and a 14 minute walk from Newcourt railway station, and had a wide range of local facilities;
- all matters had been agreed with the Highway Authority;
- there were significant benefits to the local area in terms of affordable housing of 35%, delivering up to 122 affordable homes, as well as benefits through the Section 106 and CIL contributions;
- benefits also include new direct pedestrian/cycle connections across the site, to improve the permeability of the whole Newcourt area; financial contributions towards parking restrictions; and safety improvements for all road users at the Rydon Lane/Old Rydon Lane junction and a mobility hub on site; and
- access road and pedestrian and cycle connections would be provided to the north east boundary of the scheme which would enable a future connection when the third party landowner comes forward with their application; and

He responded as follows to Members' queries:-

- the Newcourt Master Plan sets out the transport strategy for the area which included a requirements for bus stops in the area. The nearest bus stop from the

centre of the development area was 500 metres and bus networks evolve over time and accommodated future changes. The estate road would be 6.5 metres wide to allow for buses at the appropriate speed;

- it was a sustainable development and was not car dependent and there were a number of local amenities close by. There would be a mobility hub on site open to existing and new residents, providing an electric car club, e-bike hire, EV charging and cycle parking;
- the 500 metre distance from the site centre to the nearest bus stop was well within required standards and there were a number of other bus stops in the area; and
- the detailed Transport Assessment confirms that there were no inherent safety concerns in the local area, including at the Rydon Lane/Old Rydon Lane junction. The proposals provided improvements for all road users at the junction, most notably for pedestrians and cyclists and the development does not constitute a severe impact;

Members expressed the following views:-

- Members' previous concerns had been addressed and it was recognised that the developer had no control over local transport provisions;
- the connection to the edge of the site which could accommodate any future development on adjacent land was welcomed; and
- the provision of additional housing in accordance with the site allocation for residential use in the Local Plan, the Core Strategy, the Newcourt Masterplan and the draft Exeter Plan was welcome together with the Section 106 contributions such as play and public open space provision.

The recommendation was moved and seconded and, following a vote, was carried.

**RESOLVED** that, subject to an additional condition requiring that the primary road be suitable for bus traffic and subject to a Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) to secure the following:-

- 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate);
- £607 per dwelling (up to £212,450) for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust;
- £719.79 per dwelling (up to £251,927) for Special Education provision by Devon County Council Children's Services;
- £584 per dwelling (up to £204,288) to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG;
- £15,000 to Devon County Council for parking restrictions;
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA;
- Unencumbered vehicle and pedestrian/cycle link to the north-east site boundary;
- Pedestrian/cycle links to existing pedestrian/cycle path running adjacent to the northwest site boundary;
- Public open space and play provision in accordance with the comments from the Public & Green Spaces Team.

All Section 106 contributions should be index linked from the date of resolution.

The Director City Development be authorised to **APPROVE** outline planning permission for the demolition of existing buildings and structures and the phased

development of up to 350 dwellings and associated infrastructure and open space. (All matters reserved except access), subject also to the following conditions:-

1. Reserved Matters

Details of the layout, scale, appearance and landscaping (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

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

2. Standard Time Limits – Outline Planning Permission

Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of five 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.

3. Approved Plans

The development hereby permitted shall be carried out on the land outlined in red on drawing number 200909 L 01 01 ('Location Plan') and shall not be carried out otherwise than in accordance with the plans listed below, unless modified by the other conditions of this consent:

- A379 / Old Rydon Lane Junction Layout And Primary Street Site Access (47450/5505/SK06 Rev A)
- Old Rydon Lane – Eastern Site Access With Downgraded Old Rydon Lane And Change of Priority With Primary Street (47450/5505/SK02 Rev B)

**Reason:** To ensure compliance with the approved drawings.

4. Replacement Tree Planting

The application(s) for approval of landscaping details shall include replacement tree planting on the site to compensate for the loss of trees for access.

**Reason:** In the interests of biodiversity, visual amenity and screening taking into account the submitted Tree Constraint Plans 05520 TCP 24.11.20 Sheets 1 to 3 and Ecological Impact Assessment.

5. Landscaped Earth Bund

The application(s) for approval of landscaping details shall include a landscaped earth bund to mitigate the impact of noise generated by traffic on the A379 west of the site in accordance with the recommendations of the submitted Environmental Noise Assessment (AASW, September 2020).

**Reason:** In the interests of residential amenity and to provide an attractive, green edge to the site for users of the A379.

6. Lighting Design Strategy – Dark Areas

The application(s) for approval of the reserved matters shall include a Lighting Design Strategy to maintain “dark areas” on the site incorporating:

- A map showing the “dark areas” that will be maintained on site.
- An evidence based assessment of light levels of the development, including buildings, vehicle headlamps and street lighting, comprising a written report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and adjacent to the “dark areas” shown by appropriate isolines.
- Evidence to demonstrate that a light spill no higher than 0.5 lux will be achieved within the “dark areas”.
- Where c) is achieved either fully or in part through landscaping, details of the landscaping and its management to ensure it will maintain the “dark areas” in perpetuity. These details shall be incorporated into the details of landscaping and Landscape and Ecological Management Plan (LEMP) where applicable.

The Lighting Design Strategy shall be implemented and maintained as approved.

**Reason:** To prevent disturbance to bats taking into account the submitted Ecological Impact Assessment.

## 7. Surface Water Drainage

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:

- Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
- A detailed drainage design based upon the approved Sustainable Drainage Strategy and Level 2 Flood Risk Assessment 515-FRA2 V2 (dated 31 January 2022) and the results of the information submitted in relation to (a) above
- Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
- Proposals for the adoption and maintenance of the permanent surface water drainage system.
- A plan indicating how exceedance flows will be safely managed at the site.
- Evidence there is agreement in principle from South West Water for the new connection into their system.

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.

### ***Pre-commencement Details***

## 8. Road Traffic Order

Prior to commencement of development hereby approved a Traffic Regulation Order shall be submitted and approved by the relevant Highway Authority and a copy submitted to and approved in writing by Local Planning Authority.

**Reason:** To ensure safe and acceptable access routes can be secured in accordance with the approved plans.

## 9. Phasing Plan

Prior to the commencement of the development hereby permitted a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan.

**Reason:** To ensure all parts of the development, including infrastructure, are delivered in an appropriate order. A phasing plan is required before development begins to confirm the order the development will be carried out.

## 10. Updated Ecological Surveys

No development shall take place on each phase of development or use of any part of the wider site in association with the construction, until an Ecology Report for the relevant phase or area has been submitted to and approved in writing by the Local Planning Authority. The reports shall include updated ecological surveys for the phases and recommendations for mitigation to address the ecological constraints.

**Reason:** To make sure that the mitigation is still appropriate given the development will be delivered in phases over a long period of time. This is in accordance with current government guidance on protected species and development. These details are required pre-commencement as specified to ensure that appropriate mitigation measures are implemented during the construction phases based on the current ecological condition of the site.

## 11. Construction and Environmental Management Plan (CEMP)

No development (including demolition and ground works) or vegetation clearance works shall take place in any approved phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMPs shall be prepared in accordance with clause 10 of BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, and include the following:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones".
- Mitigation Method Statements, in accordance with the recommendations of the approved Ecology Reports under condition 9.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMPs shall be adhered to and implemented throughout the construction period of the development strictly in accordance with the approved details.

**Reason:** To protect the biodiversity of the site including protected species, taking into account the recommendations of the submitted Ecological Impact Assessment. A CEMP is required before any development begins to ensure that appropriate mitigation measures are identified and carried out during the construction phase.

#### 12. Archaeology

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

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

#### 13. Contamination

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

**Reason:** To protect the health and amenity of residents and visitors. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.

#### 14. Arboricultural Method Statement and Tree Protection Plan

No development (including ground works) or vegetation clearance works shall take place until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, and include details of tree/hedgerow protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences. The approved Arboricultural Method Statement and Tree Protection Plan shall be adhered to throughout the construction of the development.

**Reason:** To protect the trees and hedgerows to be retained in the interests of the amenities of the area and biodiversity, in accordance with saved Policy LS4 of the Exeter Local Plan First Review and the Trees in Relation to Development SPD (September 2009). These details are required pre-commencement as specified to ensure that trees and hedgerows to be retained are not damaged by building operations or vegetation removal, including their biodiversity interests.

#### 15. Construction Method Statement

Prior to the commencement of development in any approved phase a Construction Method Statement for that phase shall be submitted to and approved in writing by the Local Planning Authority. The Statements shall provide for:

- Timetable of Works
- Construction vehicle numbers, size, type and routing.
- Access arrangements to the site, including details of any new access being created.
- Traffic management requirements.
- Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas).
- The erection and maintenance of securing hoarding, if appropriate.
- Siting and details of wheel washing facilities.
- Cleaning of site entrances, site tracks and the adjacent public highway.
- Provision of sufficient on-site parking prior to commencement of construction activities and methods to promote car sharing to limit staff vehicles parking off-site.
- Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
- Measures to control the emission of dust and dirt during construction.
- No burning on site during construction or site preparation works.
- Measures to minimise noise nuisance to neighbours from plant and machinery.
- Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- Hours of construction working hours and deliveries limited to 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays unless alternative times have been agreed in writing with the Local Planning Authority.

The approved Statements shall be strictly adhered to throughout the construction period of the phase of the development to which they relate.

**Reason:** To ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the safety and convenience of highway users. These details are required pre-commencement as specified to ensure that building operations are carried out in an appropriate manner.

#### 16. Waste Audit Statement

Prior to the commencement of development in any approved phase, a Waste Audit Statement for that phase shall be submitted to and approved in writing by the Local Planning Authority. This statements 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 statements.

**Reason:** 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.

#### 17. Updated Acoustic Design Statement



Prior to commencement of each phase of the development the applicant shall submit for approval in writing by the LPA an updated Acoustic Design Statement, including assessment of overheating conditions. The Acoustic Design Statement should demonstrate good acoustic design, including achieving both sustainable acoustic comfort and sustainable thermal comfort. Any mitigation measures required shall be implemented in full prior to occupation of the development, and maintained thereafter.

**Reason:** In the interest of residential amenity and in accordance with recommendations set out in the submitted Environmental Noise Assessment. These details are required to ensure there is suitable residential amenity protection from noise impacts.

### ***During Construction***

#### **18. Unexpected Contamination**

If 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:** No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

### ***Pre-specific Works***

#### **19. Bird Nesting Season**

No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird nesting season from March to September, inclusive. If this period cannot be avoided, these works shall not be carried out unless they are overseen by a suitably qualified ecologist and the reasons why have previously been submitted to and approved in writing by the Local Planning Authority, including the date of the intended works and the name and contact details of the ecologist. If nesting birds are found or suspected during the works, the works shall cease until the ecologist is satisfied that the nest sites have become inactive.

**Reason:** To protect nesting birds in accordance with saved Policy LS4 of the Exeter Local Plan First Review and paragraphs 179 and 180 of the NPPF (2021).

#### **20. Energy Performance Standard**

Prior to the construction of the foundations of any dwelling hereby permitted, the Design SAP calculation(s) of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority, which shall demonstrate that the dwelling(s) will achieve a 19% reduction in CO2 emissions in relation to the level required to meet the 2013 Building Regulations, or if the dwellings are constructed to the 2022

Building Regulations that a reduction in CO2 emissions at the levels (or higher) set out in Part L of the 2022 Building Regulations will be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented. No dwelling shall be occupied until the As-Built SAP calculation of the dwelling has been submitted to and approved in writing by the Local Planning Authority to confirm that the CO2 reduction has been achieved.

**Reason:** To ensure the dwelling(s) will achieve the energy performance standard required by Policy CP15 of the Core Strategy, taking into account the Written Ministerial Statement on Plan Making (25 March 2015) requiring local planning authorities not to exceed the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes, in the interests of reducing greenhouse gas emissions and delivering sustainable development. (Advice: Please see Paragraph: 012 ID: 6-012-20190315 of the National Planning Practice Guidance on Climate Change for background information.)

#### 21. Materials

Prior to the construction of any dwelling hereby permitted (except the foundations), samples and/or product specification sheets, including confirmation of colour, of the external facing materials and roof materials of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority. The dwelling(s) shall be constructed in accordance with the approved materials.

**Reason:** To ensure good quality design and local distinctiveness, in accordance with Policy CP17 of the Core Strategy, saved Policy DG1 of the Exeter Local Plan First Review and paragraph 130 of the NPPF (2021).

#### 22. Nesting and Roosting Boxes

Prior to the construction of any dwelling hereby permitted (except the foundations), details of the provision for nesting birds and roosting bats in the built fabric of the dwellings shall be submitted to and approved in writing by the Local Planning Authority (with a minimum overall average ratio of 1 built-in nest/roost site per dwelling – provision can be more concentrated on dwellings in more suitable locations). The approved details shall be fully implemented as part of the development and retained thereafter.

**Reason:** To enhance biodiversity on the site in accordance with paragraph 9.28 and Appendix 2 of the Residential Design Guide SPD, and paragraph 180 of the NPPF (2021).

#### 23. External Lighting

No external lighting shall be installed on the site unless details of the lighting have previously been submitted to and approved in writing by the Local Planning Authority (including location, type and specification). The details shall demonstrate how the lighting has been designed to minimise impacts on local amenity and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.

**Reason:** To ensure lighting is well designed to protect the amenities of the area and wildlife.

#### ***Pre-occupation***

#### 24. Charging Points

Prior to occupation of any dwelling hereby approved a rapid charge Electric Vehicle charging point shall be provided for the dwelling at a level of 1 space per dwelling

with off-street parking and 1 per 10 spaces for unallocated parking. The charging points shall be maintained at all times thereafter.

**Reason:** To mitigate environmental impacts from traffic emissions in accordance with Policy CP11 of the Core Strategy, taking into account good practice guidance in Land-Use Planning & Development Control: Planning for Air Quality (IAQM, January 2017) and paragraph 112e) of the NPPF (2021).

#### 25. Site Access

Prior to the first occupation of the development hereby permitted a phasing plan for delivery of site access shall be submitted and approved by the Local Planning Authority. The approved access and egress points set out in the approved phasing plan shall be delivered prior to first occupation of any dwelling, with the remaining points delivered in accordance with the approved phasing plan details. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in general accordance with approved drawings 47450/5505/SK06A, 47450/5505/SK02B and 47450/5505/SK01B where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway ( identified as Y ) shall be 43 metres in both directions.

**Reason:** To ensure satisfactory access into the site and avoid the carriage of extraneous material or surface water onto the highway.

#### 26. Cycle Parking

No dwelling shall be occupied until cycle parking has been provided for the dwelling in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The parking shall accord with the minimum parking standards for residents in Table 2 of the Sustainable Transport SPD and be designed in accordance with the guidance contained therein. The cycle parking shall be maintained at all times thereafter.

**Reason:** To encourage cycling as a sustainable mode of transport in accordance with saved Policy T3 of the Exeter Local Plan First Review and the Sustainable Transport Supplementary Planning Document (March 2013).

#### 27. Car Parking

No dwelling shall be occupied until the car parking for the dwelling and access thereto has been provided and made available for use. The car parking provided shall be in accordance with the details set out in the Residential Design Guide SPD (including number of spaces, access and size) and shall be maintained at all times thereafter and kept permanently available for the purpose of car parking.

**Reason:** To ensure that adequate car parking is provided and maintained for the dwellings, in the interests of highway safety and to protect the amenities of the neighbourhood.

#### 28. Bin Storage Areas

No dwelling shall be occupied until refuse and recycling stores have been provided, in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The refuse/recycling stores shall remain in situ for their intended use at all times thereafter.

**Reason:** To accord with the Residential Design SPD (Chapter 8) and to ensure sufficient space is provided for the requisite number of receptacles.

## 29. Travel Plan

No part of the development shall be occupied until a Travel Plan (including recommendations and arrangements for monitoring and review) has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway 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 encourage travel by sustainable means, in accordance with saved Policy T3 of the Exeter Local Plan First Review and the Supplementary Planning Document (March 2013).

## 30. Biodiversity Enhancement

Prior to the construction of any dwelling hereby permitted (except the foundations), a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority, taking into account the recommendations of the submitted Ecological Impact Assessment (SWE209 Version 2). The biodiversity enhancement measures in the approved BEP shall be fully implemented as part of the development and retained at all times thereafter.

**Reason:** To enhance biodiversity on the site in accordance with paragraph 9.28 and Appendix 2 of the Residential Design Guide SPD, and paragraph 180 of the NPPF (2021)

## 31. Delivery of highways

Prior to first occupation of any dwelling hereby approved a phasing plan for highway shall be submitted in writing to, and approved by, the Local Planning Authority. This phasing plan shall set out delivery of all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splays. The works shall be completed in accordance with the approved timeframe unless otherwise approved in writing by the Local Planning Authority.

**Reason:** To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

## 32. Club Car and Club-Bike

No part of the development hereby approved shall be brought into its intended use until details of club car parking and a club-bike stations, including delivery timescales, have been submitted to, and approved in writing by, the Local Planning Authority. The approved club car parking and club-bike stations shall be delivered in accordance with the approved timetable and retained at all times thereafter.

**Reason:** To provide adequate facilities for sustainable transport and ECC Core Strategy CP9.

Further **RESOLVED** that B, the Director City Development be authorised to **REFUSE** planning permission for the reasons set out below if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990(as amended) is not completed by 16 July 2023 or such extended time as agreed in writing by the Director 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 –

- 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate);
- £607 per dwelling (up to £212,450) for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust;
- £719.79 per dwelling (up to £251,927) for Special Education provision by Devon County Council Children's Services;
- £584 per dwelling (up to £204,288) to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG;
- £15,000 to Devon County Council for parking restrictions;
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA;
- Unencumbered vehicle and pedestrian/cycle link to the north-east site boundary;
- Pedestrian/cycle links to existing pedestrian/cycle path running adjacent to the northwest site boundary; and
- Public open space and play provision in accordance with the comments from the Public & Green Spaces Team

the proposal is contrary to Exeter Core Strategy Policies CP7, CP9, CP16, CP17, CP18 and CP19, Exeter Local Plan First Review 1995-2011 saved policies L4 and DG5, Exeter City Council Affordable Housing Supplementary Planning Document 2014, Exeter City Council Sustainable Transport Supplementary Planning Document 2013 and Exeter City Council Public Open Space Supplementary Planning Document 2005.

The meeting adjourned at 18:10 and re-convened at 18:15.

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**PLANNING APPLICATION NO 22/1454/RES - LAND AT ALDENS FARM WEST, SHILLINGFORD ROAD, EXETER**

The Principal Project Manager (Development Management) (CC) presented the application for reserved matters seeking permission for 182 dwellings and associated infrastructure, layout, scale, appearance and landscaping relating to the Residential development approved under application 15/0641/OUT (Revised plans).

The report also setting out the following key elements:-

- the principle of development;
- requirements of 15/0641/OUT;
- quantum of development;
- site layout
- amenity;
- highway considerations;
- biodiversity;
- drainage;
- archaeology; and
- sustainable construction and energy conservation.

The Principal Project Manager (Development Management) (CC) advised that since the publication of the Planning Committee agenda, revised plans has been submitted. These were based on advice from the assessing officer and involving minor alterations to dwelling details, garden layouts and the introduction of additional visitor parking spaces. He provided the following detail:-

- Aldens Farm was a Reserved Matters application for 182 dwellings following a 2015 Outline application that granted in September 2021 comprising a mix of 1, 2 and 4-bed dwellings including two blocks of flats on a 4.1 hectare site which is currently split into two fields, with hedgerow bordering each. To the West is Shillingford Road, which had vehicular access already approved as part of the Outline consent. To the north is Veitch Gardens and to the east is an additional site allocated for development as part of the south Alphington expansion. To the immediate south is Markham Lane and land under Teignbridge Council, which was undergoing significant development;
- an additional objection had been received bringing the total to 75, the primary objection being the density of development and subsequent impacts on the surrounding area
- the indicative plans and the initial access assessment showed 116 dwellings which had led to expectation of a much lower level of development in this area;
- the scheme would have a total site density of 43.75 dwellings per hectare (dph) which was considered in keeping with that of development in the surrounding area. The Alphington Development Brief, which covers this and a wider area, makes reference to density, noting that levels of 30 dph would be the minimum expected, with lower densities at the north and southern parts of the site. The closest sites to this development were immediately to the south across Markham Lane, split into two parcels, one for 94 dwellings at a site density of 35.2dph and one for 163 dwellings at a density of 40.4dph. Density levels in the Design Brief state 20 dph for areas of Vestry Gardens, Chudleigh Road and Steeple Drive and 54 dph for areas of Lichgate Road and Tower Walk;
- on balance, it was considered that the level of density was similar to that of the surrounding area and was acceptable in principle;
- a revised Transport Assessment was submitted based on the new dwelling numbers and the Highway Authority found that the proposed access was still suitable for this increased number of dwellings with suitable capacity on the surrounding highway network;
- revised plans had changed the appearance of a number of buildings with a reduction in height of a number of plots and revised car parking arrangements. In line with a condition and Section 106 requirement, 10% of the site would be public open space;
- the bordering hedgerow would be improved as part of this scheme, with the only removal to create the access points. The central hedgerow would be retained and would become a dark corridor for bat use;
- there was a thought that a connection to Chudleigh Road would be made as part of this application. The relevant condition required that a road suitable for two way bus traffic be built up to the site boundary to join third party land allocated for future residential development;
- a footway will be installed along the western site boundary along Shillingford Road; and
- an existing Section 106 Agreement included a 30% Affordable Housing delivery, as well as contributions towards education, medical care and the local highway network.

The Principal Project Manager (Development Management) (CC) stated in conclusion that, whilst there was an increase in density compared to the indicative levels shown at outline stage, it had been demonstrated that the site could accommodate this increase. The development would provide an acceptable level of amenity for occupants and was therefore recommended to the Committee for conditional approval.

The following responses were given to Members' queries:-

- outline permission had already been granted and it would not be possible to add contributions for special education needs and, seeking an overall re-design, would be costly to the developers;
- on balance, a density of 43.75 dph was not excessive;
- social housing provision was not limited to the identified flats but would be spread throughout the site;
- the number of bedrooms would be reflected through car parking provision which would be 1.4 per household on average and would include designated visitor parking bays. Car parking provision would be largely off street;
- the Locally Equipped Area for Play was not part of the drainage network;
- whilst the trees were not covered by TPO's, they would be retained; and
- 30% affordable housing provision had been agreed at outline stage through the Section 106 Agreement which did not include provision for linkage to District Heating as this could no longer be fulfilled.

Councillor Atkinson, having given notice under Standing Order No. 44, spoke on the item. She raised the following points:-

- concerns were expressed at the outline stage regarding the dangerous traffic conditions caused by the narrowness of Shillingford Road and this remained the case with the safety of pedestrians and cyclists compromised;
- design and density were inappropriate for the local area and it was unacceptable to compare density with those of the neighbouring developments in Teignbridge;
- the proposed density was put forward to maximise profits and did not reflect housing developments in Alphington;
- the proposal did not comply with the design principles of the Alphington Development Brief and failed to respect the character and appearance of neighbouring residential properties;
- the Development Brief referred to dwellings not exceeding two storeys in height – this development had two and a half and three storey heights in some cases;
- the relationship with Markham Lane would be inappropriate;
- tree planting was inadequate;
- schools and the GP surgery were already oversubscribed and these as well as other community facilities would suffer increased pressure; and
- a re-design was required with lower density to more reflect Alphington Village.

Councillor Warwick, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- the area on the edge of Exeter had historical significance, particularly the location of Veitch Nursery and Markham's Lane, formerly Hangman's Lane, but much of the high quality agricultural land had been, or was being lost, to development;
- whilst more houses were needed, it was an excessively dense development with this part of Exeter, together with the land in Teignbridge, becoming an urban snowball for developers;
- local residents were genuinely concerned at the scale of the developments in the area and it was not simply a case of "not in my backyard". There were significant biodiversity impacts and there would be yet more pressure on local amenities; and
- Shillingford Road required a dedicated pedestrian crossing.

Juliet Meadowcroft spoke against the application. She raised the following points:-

- the Alphington Village Forum understood that more houses were needed and that two sites in the village had been approved some years ago. The Forum was not fighting against the principle of development, but against the effects it caused, taking into account the surrounding area, the capacity of the local roads, and the existing residents. The application nearly doubled the density previously approved;
- the Alphington Development Brief was produced as a Supplementary Planning Document in 2014. Tilia Homes appears to have ignored this document, as well as the 74 objections from residents as they are not included in their Consultee Response Tracker. They had responded to 56 objections made by official consultees, but there was not one response to the residents' objections. The new South West Exeter Local Centre would be at least a kilometre away;
- the Brief stated that the site must make an excellent contribution to the character and appearance of Alphington, but this would be impossible with 182 houses squeezed onto two small fields. It lacked a sense of place and did not integrate with existing development in the vicinity with a high density, tall blocks and tiny gardens, 22 of which were below the recommended size;
- there would be increased traffic congestion in the village with another 2,500 new houses being built nearby with no new infrastructure. Approximately 270 of these will be higher up on the same Shillingford Road, a narrow hill, just above the Tilia development, with another 900 houses further up this hill; and
- the Highways Authority did not look at the bigger picture, when all 6,000 new residents occupy their homes. The only bus service was unreliable and cycle paths did not and could not exist as the roads are too narrow and dangerous.

Ben Smith spoke in support of the application. He raised the following points:-

- within the Exeter City Council adopted Core Strategy 500 dwellings had been allocated south of Alphington. To date, outline approval had been granted for 234 plots, with 206 gaining a reserved matters approval, leaving 294 plots within the allocation. Reserved matters were sought for 182 dwellings with associated infrastructure, layout, scale, appearance and landscaping;
- there was a need for 1, 2 and 4 bed housing not only as affordable housing but housing that was also affordable by their design whilst still meeting the required standards as outlined within the Exeter Housing Needs Assessment;
- the scheme met the needs of the local population and, by providing 1, 2 and 4 bed homes, best use was made of the land providing 54 affordable houses and apartments;
- £4 million would be provided in Section 106 contributions and CIL payments;
- materials to be used would reflect the local area;
- the application met the required planning policy and the structure and design of the scheme followed the principles of the Framework Plan and Design and Access Statement;
- the County Ecologist, the Highways Officer and the Lead Local Flood Authority had not objected to the application; and
- the design of the scheme meets the local need, therefore the developer was in a position to provide 54 affordable dwellings, an increase of 19 over a scheme of 116 plots.

He responded as follows to Members' queries:-

- approval had already been granted for a pedestrian crossing;
- it would not be a 100% Net Zero development but would be built to current Building Regulation standards including energy saving measures;



- ecological measures would include the retention of the hedge through the centre of the site, landscaping, provision of public open space and a dark corridor for bats along Markham Lane. There would be a five metre buffer to the east of the hedgerow with no housing provided in this location;
- the developer had met with local residents including members of the Alphington Village Forum and the web site has been updated following re-consultations on changes to the plans. It was considered that the urban design reflected the character of the village and the surrounding vernacular with a mix of red brick and render; and
- the scheme had a total site density of 43.75 dph, which was considered in keeping with that of development in the surrounding area.

Members expressed the following views:-

- the application should be refused on grounds of excess density, inadequate spread of social housing throughout the site, a design being more suitable to a city centre location and concerns with issues relating to infrastructure;
- whilst the density proposed could be accepted, concerns remain relating to impact on biodiversity and ecology, the small size of the gardens, a failure to reflect the original Alphington Development Brief as well failing to address the impact on road safety;
- following revisions to the submitted information the proposal was considered to be acceptable in accordance with local and national policy;
- there were no planning reasons to refuse and the benefits outweighed the disadvantages;
- not everyone required large gardens;
- contributions per dwelling to local amenities would be beneficial; and
- Alphington was no longer a small village on the edge of Exeter.

The recommendation was for approval, subject to the conditions as set out in the report.

The recommendation was moved and seconded and, following a vote, was carried.

**RESOLVED** that planning permission for reserved matters application for 182 dwellings and associated infrastructure, layout, scale, appearance and landscaping relating to the Residential development approved under application 15/0641/OUT (Revised plans) be **APPROVED**, subject to the following conditions:-

### **Timescale**

The development hereby permitted shall be begun before the expiration of five years from the date of the issuing of the Outline permission. In the interest of clarity this is 24 November 2026.

**Reason:** To ensure compliance with section 91 - 93 of the Town and Country Planning Act 1990.

### **Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans:

- P22-1227-DE\_05 Rev I Site Location Plan
- P22-1227\_DE\_02 Rev AA Site Layout
- P22-1227\_DE\_04 Rev H Materials Plan
- P22-1227\_DE\_06 Rev G Affordable Tenure Plan
- P22-1227\_DE\_07 Rev G Building Heights
- P22-1227\_DE\_08 Rev G External Works

- P22-1227\_DE\_09 Rev G Refuse Strategy
- P22-1227\_DE\_10 Rev J Parking Strategy
- P22-1227\_DE\_11 Rev G Adoption Plan
- P22-1227\_DE\_11 Rev G Movement Plan
- P22-1227\_DE\_14 Rev D Illustrative Street Scenes
- 3262.100.1 Rev G Landscape GA Sheet 1 of 5
- 3262.100.2 Rev G Landscape GA Sheet 2 of 5
- 3262.100.3 Rev G Landscape GA Sheet 3 of 5
- 3262.100.4 Rev G Landscape GA Sheet 4 of 5
- 3262.100.5 Rev G Landscape GA Sheet 5 of 5
- 3262.100.6 Rev G Landscape GA Complete Site
- 0645-A-101-P2 Longitudinal Sections Sheet 1 of 2
- 0645-A-102-P2 Longitudinal Sections Sheet 2 of 2
- 0645-A-103-P3 Plot Levels
- 0645-A-104-P4 Preliminary Section 38 Plan
- 0645-A-105-P4 Kerbing and White Lining
- 0645-A-106-P3 Materials Plan
- 0645-A-107-P0 Road Construction Details
- 0645-A-120-P3 Drainage Strategy
- 0645-A-0121-P3 Surface Water Catchment Plan
- 0645-A-0122-P4 Flood Exceedance Routing Plan
- Play Area Proposal 03 February 2023
- P22-1227\_DE\_03J House Type Pack February 2023

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

### **Pre-Commencement**

#### **Construction Ecological Management Plan**

No development nor clearance works shall occur on the development hereby approved until a Construction Ecological Management Plan (CEcMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEcMP shall include the following

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs in line with the submitted Arboricultural Method Statement 1031-AMS-MU (February 2023).

Reason: To ensure protection of biodiversity during construction. This is necessary as a pre-commencement condition to ensure suitable measures are in place prior to work starting on site.

#### **Pre-Relevant Works**

##### **Hedgerow and Scrub Removal**

No works relating to hedgerow or scrub removal shall occur until a license Dormouse license has been granted by Natural England. The works shall be undertaken in accordance with the details approved by Natural England.  
Reason: To ensure suitable protection and mitigation for dormice.

## **Pre-Foundations**

### **Highway delivery**

Prior to works commencing on foundations details of phased delivery of Highway matters shall be submitted to and approved in writing by the Local Planning Authority. This shall set out the phasing process and areas of delivery for each phase.

Prior to each agreed phase commencing details, including drawings and delivery timetables for estate roads, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be submitted to and approved in writing by the Local Planning Authority.

These aspects shall be constructed and laid out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a suitable design of the streets and highway network.

## **Pre-Damp Proof Course**

### **Elevation Materials**

No works shall occur above foundation-level until details, including type and colour, of all external materials to be used on the elevations of the houses and flats hereby approved have been submitted to and approved in writing by the Local Planning Authority.

The development shall be undertaken in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure suitable materials in the interest of visual amenity and good design.

### **Boundary Treatments**

No works shall occur above foundation-level until details, including material and design, of all public and private boundary treatments are submitted to and approved in writing by the Local Planning Authority.

The boundary treatment shall be installed in accordance with the approved details prior to first occupation or use of the respective area.

Reason: To ensure appropriate design and material choice in the interest of visual amenity.

## **Pre-Installation**

### **Lighting**

No external lighting shall be installed on the site unless details of the lighting have previously been submitted to and approved in writing by the Local Planning Authority (including location, type and specification). The details shall include:

- a) A map showing the "dark areas" that will be maintained on site.
- b) An evidence based assessment of light levels of the development, including buildings, vehicle headlamps and street lighting, comprising a written report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and adjacent to the "dark areas" shown by appropriate isolines.

- c) Evidence to demonstrate that a light spill no higher than 0.5 lux will be achieved within the “dark areas”
- d) Where c) is achieved either fully or in part through landscaping, details of the landscaping and its management to ensure it will maintain the “dark areas” in perpetuity. These details shall be incorporated into the details of landscaping and Landscape and Ecological Management Plan (LEMP) where applicable.

The lighting shall be installed in accordance with the approved measures and retained in that manner at all times thereafter.

Reason: To ensure lighting is well designed to protect the amenities of the area and wildlife.

### **Pre-occupation Landscape Ecological Management Plan**

Prior to first occupation of any dwelling hereby approved a Landscape Ecological Management Plan (LEMP), including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be carried out as approved at all times thereafter.

Reason: To ensure biodiversity gain and that satisfactory landscaping works are provided and maintained.

### **Refuse Storage**

Prior to first occupation of any dwelling hereby approved full details, including location, design and materials of refuse and recycling stores shall be submitted to and approved in writing by the Local Planning Authority.

The refuse and recycling stores shall be installed in accordance with the approved details prior to occupation of each respective dwelling and retained solely for that use at all times thereafter.

Reason: To ensure suitable refuse and recycling storage in the interest of amenity and highway safety.

### **Cycle Storage**

Prior to first occupation of any dwelling hereby approved full details, including design and materials, of secure cycle storage at a ratio of 1 space for each 1-bed or 2-bed dwelling and 2 spaces for each 3-bed or more dwelling has been submitted to and approved in writing by the Local Planning Authority.

The approved cycle storage shall be installed prior to first occupation of the respective dwelling it serves and retained at all times thereafter.

Reason: To promote sustainable transport options for occupants.

### **Parking**

Prior to first occupation of each dwelling hereby approved the relevant vehicle parking spaces shall be provided in accordance with the approved details. Allocated spaces in shared parking areas shall be clearly marked with the relevant allocation details. All spaces shall be retained solely for that use at all times thereafter.

Reason: To ensure suitable parking provision for motor vehicles to reduce impacts on highway safety.

### **Drainage**

Prior to first occupation of any dwelling hereby approved the approved surface water management system shall be implemented in accordance with the approved details and brought into use.

The approved surface water drainage details are:

- 06545/FRA/0001 Rev4 Flood Risk Assessment and Drainage Strategy (February 2023)
- 06545-A-0101-P2 Longitudinal Sections Sheet 1 of 2
- 06545-A-0102-P2 Longitudinal Sections Sheet 2 of 2
- Storm Sewer Design Criteria 12-02-2023
- 06545-A-0120-P3 Drainage Strategy
- 06545-A-0121-P3 Surface Water Catchment Plan
- 06545-A-0122-P4 Flood Exceedance Routing Plan

Reason: To prevent flooding and provide suitable on-site surface water management.

### **Compliance**

#### **Gates**

All rear service alleys shown on the approved plans shall see the gates with locks installed prior to first occupation of the relevant dwelling(s).

Reason: To provide security to future occupants.

#### **LEAP**

The play area approved as part of this approval shall be installed in accordance with the details set out on approved drawing Play Area Proposal (dated 03 February 2023) unless otherwise agreed in writing with the Local Planning Authority. This area shall remain solely for this use at all times thereafter.

Reason: To ensure suitable play facilities are provided by this development.

#### **Silt Management**

The development hereby approved shall be undertaken in accordance with the details set out in the submitted Silt Management Plan 06545-WR-A-P1 (February 2023) at all times.

Reason: To limit impacts during the construction phase.

#### **Tree Replacements**

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 ensure long-term biodiversity net gain and mitigation from the scheme.

#### **Informatives:**

##### **Outline Conditions**

It is brought to the applicant's attention that outstanding conditions remain on the Outline decision notice 15/0641/OUT and that this application does not discharge any conditions except for those required at Reserved Matters stage. Separate application will need to be made to resolve those conditions.

##### **Negotiated Approval**

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.

### **CIL**

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 (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).

### **European Marine Sites**

In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to 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)

The meeting adjourned at 19:10 and re-convened at 19:16.

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### **PLANNING APPLICATION NO. 22/1177/FUL - LAND ADJACENT TO GRAS LAWN AND FLEMING WAY, GRAS LAWN, EXETER**

The Principal Project Manager (Development Management) (CC) presented the application for the construction of two, one bedroom, two person dwellings with external space, landscaping and associated works.

- the application was for two dwellings in land adjacent to Gras Lawn and Fleming Way. It was a windfall, vacant site, fenced off and not publically accessible, bordered by a public footpath on one side and a pedestrian/cycle route on the other;
- it was proposed to create two, two-storey adjoined one-bed dwellings. Whilst appearing on a narrow site, the dwellings exceeded the Nationally Described Space Standards and would each have a private garden area. All habitable rooms were served by windows and would provide a good level of amenity to occupants;

- in terms of neighbour amenity, the buildings had been designed with narrow window openings on the front and rear elevations to reduce intervisibility with neighbouring properties. This was further assisted by high level boundary walls and the design of the surrounding area with trees and parking areas. It was also proposed to require first floor windows to be obscure glazed and remove the permitted development rights for additional windows;
- access was from the footpath/cycle route;
- the primary openings were on the side (east and west) elevations, reducing the size and amount needed on the front and rear that face towards other dwellings. There are still small windows, doors and rainwater goods on the front and rear elevations to add visual interest and the final details of these will be required via condition to ensure they are acceptable; and
- the development was proposed to be car free, with secure cycle storage for each property. This was considered acceptable considering the scale of development, limited occupation and position adjacent to cycle routes. The surrounding area was subject to permit parking and the Highway Authority would decide whether permits could be issued.

In conclusion, the proposal was considered to make a modest contribution to housing supply in the city. The one-bed dwellings proposed were underprovided in the area and would help to alleviate this shortfall. The design was suitable for such a unique site position and would provide suitable occupant amenity whilst avoiding significant impacts to neighbours. The proposal was therefore recommended to the Committee for conditional approval.

Members were advised that the site was not in a Conservation Area and that the hedge would be retained.

Councillor Vizard, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- thank-you all who visited the site, many being surprised by the narrow dimensions of the strip of land;
- 44 public objections, including from the Gras Lawn Residents' Association, was a very significant number for an application of this scale;
- the site provided important green visual amenity and some biodiversity value. The simplest visual aid was that it was narrower than this Rennes room;
- along the rear of the piece of land was a hedgerow and development would mean damage or loss to this valuable natural heritage. This was in addition to the loss of the green space itself which the Campaign to Protect Rural England had objected to. They had also shared residents' concerns about the break in the tree-lined green corridor and the loss of wildlife. While the Ecological Assessment Report and mitigation, including recommendations to retain a qualified ecologist is noted, if this were to be approved, it would not mitigate the overall loss of the spatial flow and amenity of the design of Gras Lawn and Fleming Way;
- small green spaces were of substantial value to the amenity of the neighbourhood and general wellbeing. The pedestrian and cycle path were also of critical visual and social value;
- the openness of this site detracted from potential anti-social behaviour and closing it would create a claustrophobic corridor or alleyway in its place;
- it was not a good design principle and given their location and the rental market, were unlikely to provide a genuinely affordable housing option. It was overdevelopment;

- the Gras Lawn Residents' Association had offered to work with the applicant to landscape and enhance the area, as it could be of community benefit;
- a lack of a five year housing supply had been cited. Whilst the applicant might have good intentions regarding environmental aspects of the construction, it was also important to consider what homes were actually like to live in. The design of these homes was dictated by the space on this extremely narrow site, and as such, were seriously compromised and feel barely adequate for happy living;
- residents have strongly expressed their view that the proposed dwellings were not in keeping with the surrounding brick-built houses and referred to Gras Lawn as a strong sense of place created by a formal, planned character;
- neighbours were concerned at the loss of privacy and did not feel that the design adequately expressed the impact the proposed dwellings would have in terms of overlooking, overshadowing and loss of light;
- the reasons for a planning refusal on this site in 2008 underlined the residents' points. In 2008, a 1.9 metre close boarded timber fence had been erected around the same area without planning permission. A retrospective application had been refused on the grounds that it *"would set an undesirable precedent for similar visually harmful boundary treatments in the vicinity"* and that the *"siting and constituent materials are intrusive features in the street scene which detract from the character and appearance of the area"*.
- a subsequent decision by the Planning Inspectorate dismissed an appeal citing the Development Plan policy that *"new development should maintain and improve the quality of Devon's environment and that all designs should promote local distinctiveness and contribute to the amenity of the townscape."* The Inspector had stated that there was one main issue in the appeal, namely *"the impact of this fence on the character and appearance of the surrounding residential area."* The Inspector concluded that *"The fence that has been erected is highly visible both in the street scene and in longer range views down the footpath and in my opinion, it is seen as a harsh and completely alien feature. It also acts as an intrusive visual barrier. I therefore have no doubt that this structure has seriously harmed the character and appearance of this attractive residential area."*; and
- given the Planning Inspector's statement about a mere 1.9 metre timber fence a two double-storey timber-clad houses would also be detrimental.

Caroline Millar spoke against the application. She raised the following points:-

- she represented the Gras Lawn Residents' Association and speaking on behalf of Gras Lawn and those affected in Fleming Way;
- thank you if you were able to visit the site, and for reading the many objections raised - all show tremendous opposition from local residents. Small spaces matter and this was an overdevelopment of a small space. The proposed dwellings were too big in mass and scale for the footprint of the site;
- because the site is so small and narrow, the design would have a significant overbearing impact - a two-storey, flat roofed block, with galvanised steel and corrugated zinc features, intrusively shoe-horned at the end of a tree lined avenue, an avenue that has enormous visual amenity;
- the Exeter Planning Policy states that developments should be sympathetic to the surrounding built environment. The design and materials used were unsympathetic, visually jarring, and out of character. The narrative in the Design and Access Statement that it makes the public space safer and more enjoyable was not an opinion shared by any residents. These dwellings would result in the loss of amenity to surrounding properties. In terms of privacy, all the first floor windows either looked into the properties at 33 or 68 Fleming Way, or they overlooked the various bedrooms and outside spaces of five Gras Lawn



properties. Those residents felt that obscured glass did not help as windows can be opened;

- in terms of loss of daylight and overshadowing, 33 and 68 Fleming Way would be particularly affected for several months of the year. The owners of 33 were having their own right to light survey done as their property was particularly affected;
- the PV panels would be visually intrusive to the Gras Lawn properties, and their reverse steel frame would be an eyesore to Fleming Way. An appeal to keep a 1.9 metre fence around the boundary had failed. The Planning Inspector's decision stated that it acted as "an intrusive visual barrier" and "this structure has seriously harmed the character and appearance of this attractive residential area"; and
- Exeter has plenty of decent accommodation where the internal living spaces are of meaningful size. Residents feel that, despite a housing shortage, there was no excuse for overdevelopment, or an unsympathetic design which resulted from an inadequate footprint, or loss of visual amenity for a great many people,

Nigel Grainge spoke in support of the application. He raised the following points:-

- having two, one bedroom, two person houses would modestly help to address housing need for small homes;
- there had been early consultation with neighbours and officers and there was a positive end-result after a thorough and caring process;
- space standards are generous with good sized gardens;
- the design was of a high standard, yet simple and understated. Its small scale defers to the adjacent Gras Lawn and Fleming Way housing;
- the east and west aspects are orientated away from the existing residential properties, so the primary windows and principal outlook from the main ground floor living areas and bedrooms above do not overlook nearby dwellings. Ground floor windows face into hedging, brick walls or other boundary features and so would not cause harm to privacy in neighbouring properties;
- the presence and design of these two houses would enhance natural surveillance where little exists: over the adjacent footpath and cycle route as well as the areas of nearby car parking;
- the development would not cause undue harm to wildlife habitats and could achieve a net gain in green infrastructure and biodiversity value; and
- a windfall site will be developed and no planning policy reasons for refusal have been identified.

He responded as follows to Members' queries:-

- the Design and Access Statement explained the design options;
- the aim was to deliver two 'net zero carbon homes' with a 'fabric first' approach with air sourced heat pumps, mechanical ventilation and photovoltaics, exceeding Building Regulations requirements;
- the width varies between 7 metres to 7.5 metres, narrowing to 4.5 metres at one end with an overall length of 37.5 metres;
- the gap from the building to the hedge varies between 2 metres and 2.5 metres;
- there would not be a need to build deep foundations;
- the materials would reflect the bark of neighbouring trees; and
- the use of timber frame and cladding with wood fibre insulation, not only minimised embodied carbon, but enabled off-site manufacture reducing disruption of site works and wastage of materials.

Members expressed the following views:-

- it was the right building but in the wrong place;
- support refusal on the grounds of the impact on the immediate area as it would not be appropriate for the neighbourhood, loss of privacy and light to neighbouring properties, poor design and inappropriate materials;
- it was a computer led development and there were ecological concerns including the impact on hedges during construction;
- the reasons for refusal had been well represented by the objector and the Councillor speaking under Standing Orders, the latter referring in particular to an Inspector's decision regarding an application for a fence which had been dismissed on appeal on the grounds of the impact it would have had on the character and appearance of the area. The reasons for dismissing the appeal on that occasion remain pertinent to this application; and
- the development should be refused on grounds of design and over development.

The recommendation was for approval, subject to the conditions as set out in the report.

The recommendation to approve the application was moved, seconded voted upon and LOST unanimously.

The meeting adjourned at 20:06 and re-convened at 20:17.

Members were minded to refuse the application, and accordingly, it was moved that the application be deferred and the Service Lead City Development be requested to report back to the next meeting of this Committee with the full technical reasons for refusal. The motion was seconded, voted upon and carried unanimously.

**RESOLVED** that the application be **DEFERRED** for the Service Lead City Development to report reasons for refusal to the next meeting.

## 22 PLANNING APPLICATION NO. 21/1014/FUL - 68-72 HOWELL ROAD, EXETER

Councillor M. Mitchell declared an interest and did not participate in the debate or vote. He spoke on this matter from the floor as a member of the public.

The Service Lead City Development presented the planning application for the demolition of the garage workshop and construction of four three-storey (plus basement) purpose-built student accommodation units, numbering 26 bedrooms.

At the Planning Committee held on 8 February 2023, Members were minded to refuse the application. Accordingly, it was moved that the Service Lead City Development be requested to report back to the next meeting of the Committee with the full technical reasons for refusal based on the following concerns:

- using the site for student housing would lead to a further concentration of this use in this particular area of the city, resulting in an increased population imbalance within the local community; and
- Members wished the refusal reason to reflect the overarching aim of the St. James Neighbourhood Plan to create a vibrant community that ensures an appropriate balance between student and permanent resident populations.

Councillor Pearce, having given notice under Standing Order No. 44, spoke on the item. He raised the following points:-

- views in opposition to the application were clearly expressed at the 8 February 2023 meeting, reflecting the opposition to this development within the St. James Neighbourhood;
- data shows a clear imbalance of student numbers within the community which could equally be said for the city as a whole, with some 35,000 students out of a total population of 133,000; and
- the reference in the proposed refusal reason to students should refer instead to 18-25-year-olds.

The Service Lead City Development stated that the proposed refusal reason referred to student accommodation and not simply to students; a Member commented that the issue was concerning the type of tenure, not the age group, as students could be of any age.

Councillor M. Mitchell, speaking as a member of the public, made the following points:-

- Members have already come to a clear view requesting on 8 February 2023 a report on refusal reasons;
- the refusal reasons should relate to both the Local Plan and the St. James Neighbourhood Plan;
- regard should be had to the planning permission refused in respect of student accommodation on a garage site at 36-38 Well Street; it was based on Local Plan Policy H5(b) and Policy C2(a) of the St. James Neighbourhood plan;
- the refusal relating to the Howell Road application is mentioned in a generalised statement rather than a specific point;
- there is a strong local feeling regarding community balance; and
- Members should support both 5H(b) of the Local Plan and Policy C2 of the Neighbourhood Plan.

Ms Connett, speaking against the application, made the following points:-

- the Council was thanked for the consideration given to the Neighbourhood Plan (NP) and for voting not to accept the recommendation for approval;
- further consideration of specific NP policy clauses as reasons for the refusal was urged;
- the NP must be recognised in its statutory status as part of the Development Plan, and the report must include evidence of professional scrutiny against relevant NP policies, including consideration of the objections and claims of Exeter St. James Forum as a statutory consultee, with a rationale justifying officer conclusions in each case;
- no NP policy had even been considered when assessing this application;
- Policy C2(a) is particularly relevant;
- the Independent Examiner of the NP should not be doubted; he scrutinised and approved the wording of the draft Policies C1, 2 and 3 without amendment, satisfied that decisions on planning applications should be easy to predict where these clauses were relevant. He stated that the supporting text, other policies and the overarching aims of the Plan were expected to be used to help interpret specific policies;
- the preamble to C2 as well as the policy, showed non-compliance of this application to C2(a), and the applicant's barrister, therefore, must have misread the policy and overlooked the preamble;

- C1e does not permit the change of use of any property to HMO where it undermines the maintenance of a balanced and mixed local community. The Inspector stated that this policy was a sensible approach to the local issue of community balance and had no concerns with the wording;
- this application comprises four houses in multiple occupation according to the Government definition, and as there is an over-concentration already in the vicinity, the proposal is non-compliant with Policy C1(e); and
- for robustness and accuracy C2(a) and also C1(e) should be cited as additional reasons for refusal.

The Service Lead City Development summarised the three elements of Policy C2 and advised that these were not applicable in respect of this application as reasons for refusal. Instead, citing the overarching aims of the Exeter St James Neighbourhood Plan was appropriate. Reference should also be made to the Neighbourhood Plan forming part of the Local Plan.

Sam Williams, speaking in support of the application, made the following points:-

- I am the owner of the site at Howell Road;
- the site was recommended for approval at the Committee on 8 February 2023, but the decision was deferred for a reason for refusal to be provided. The sole reason was policy H5(b) of the Local Plan - the balance of communities;
- every time the Council had fought an appeal on the issue of imbalance and Purpose Built Student Accommodation (PBSA), it had lost;
- this month, the Council approved a 107-bed PBSA only 350 metres from the site, the report stating that the Council did not currently define community imbalance in any planning documents. An ongoing need for student accommodation had also referred to;
- in a planning appeal loss of 2019, the Secretary of State held that local opposition was not itself sufficient grounds to withhold planning permission for student accommodation in Exeter;
- the St. James Neighbourhood Trust only represented 1% of the ward. Many of the immediate neighbours to the site supported this application;
- decisions should reflect the needs of all residents in the ward and the city, including the needs of students;
- the report states that there are no negatives arising from the development, only positives and the development accords with all policies in the Neighbourhood Plan.
- the upcoming Article 4 review "expressly does not relate to PBSA";
- it was a good scheme resulting from years of collaboration with the planning department. Every change requested had been accommodated, and
- to allay concerns about the management, a warden's flat can be included, which would reduce overall numbers by one, and quarterly management meetings could be held with any neighbourhood group.

The recommendation was for refusal for the reasons set out in the report.

The recommendation was moved and seconded, put to the vote and carried.

**RESOLVED** that the planning application for the demolition of the garage workshop and construction of four three-storey (plus basement) purpose-built student accommodation units, numbering 26 bedrooms, be **REFUSED** as the use of the site for student housing would not be appropriate within the St James Ward as it would lead to a further concentration of this use in this particular area of the city, resulting in an increased imbalance of population within the local community, contrary to

Policy H5(b) of the Exeter Local Plan First Review 1995-2011 and the overarching aims of the Exeter St James Neighbourhood Plan.

23

**LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the Director City Development was submitted.

**RESOLVED** that the report be noted.

24

**APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

**RESOLVED** that the report be noted.

25

**SITE INSPECTION PARTY**

**RESOLVED** that the next Site Inspection Party will be held on Tuesday 11 April 2023 at 9.30 a.m. The Councillors attending will be Councillors M. Mitchell, Morse and Newby

(The meeting commenced at 5.30 pm and closed at 8.50 pm)

Chair