

## PLANNING

Date: Monday 15 April 2019  
Time: 5.30 pm  
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, Democratic Services Officer (Committees) on 01392 265107.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

### *Membership -*

Councillors Sutton (Chair), Lyons (Deputy Chair), Bialyk, Branston, Edwards, Foale, Harvey, Mrs Henson, Morse, Prowse, Sheldon, Thompson and Vizard M

## Agenda

### Part I: Items suggested for discussion with the press and public present

#### 1 Apologies

To receive apologies for absence from Committee members.

#### 2 Minutes

To approve and sign the minutes of the meeting held on 18 March 2019.

(Pages 5 -  
12)

#### 3 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

#### 4 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC**

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should wish to do so, then the following resolution should be passed: -

**RECOMMENDED** that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

#### **Public Speaking**

**Public speaking on planning applications and tree preservation orders is permitted at this Committee. Only one speaker in support and one opposed to the application may speak and the request must be made by 10 am on the Thursday before the meeting (full details available on request from the Democratic Services Officer).**

#### 5 **Planning Application No. 18/0873/FUL - Land at Ribston Avenue, Exeter**

To consider the report of the City Development Manager. (Pages 13 - 78)

#### 6 **Planning Application No. 18/1053/FUL - Alphin House, Mill Lane, Exeter**

To consider the report of the City Development Manager. (Pages 79 - 100)

#### 7 **Planning Application No. 18/1275/FUL - Alphin House, Mill Lane, Exeter**

To consider the report of the City Development Manager. (Pages 101 - 122)

#### 8 **Planning Application No. 18/0704/FUL - 20 Countess Wear Road, Exeter**

To consider the report of the City Development Manager. (Pages 123 - 134)

#### 9 **Planning Application No. 18/0707/FUL - 20 Countess Wear Road, Exeter**

To consider the report of the City Development Manager. (Pages 135 - 144)

#### 10 **List of Decisions Made and Withdrawn Applications**

To consider the report of the City Development Manager. (Pages 145 - 158)

#### 11 **Appeals Report**

To consider the report of the City Development Manager. (Pages 159 - 160)

## 12 SITE INSPECTION PARTY

To advise that the next Site Inspection Party will be held on Tuesday 7 May 2019 at 9.30 a.m. Councillors attending to be advised.

### **Date of Next Meeting**

The next scheduled meeting of the Planning Committee will be held on **Monday 20 May 2019** at 5.30 pm in the Civic Centre.

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on (01392) 265107 for further information.

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## PLANNING COMMITTEE

Monday 18 March 2019

### Present:-

Councillor Sutton (Chair)  
Councillors Lyons, Bialyk, Branston, Edwards, Foale, Harvey, Mrs Henson, Morse, Prowse, Sheldon and Vizard M

### Apologies

Councillor Thompson

### Also Present

Service Lead City Development, Principal Project Manager (Development) (MH) and Democratic Services Officer

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### MINUTES

The minutes of the meeting held on 11 February 2019 were taken as read, approved and signed by the Chair as correct.

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### DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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### PLANNING APPLICATION NO. 19/0055/VOC - SANDY PARK LODGE, OLD RYDON LANE

The Principal Project Manager (Development) (MH) presented the application for Variation of Condition no. 3 of Planning Application Reference Number: 17/0665/OUT granted planning permission on 26/06/2018 to remove requirement for one-way system on Old Rydon Lane to be implemented/completed prior to implementation of permission.

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

- local residents are concerned about access onto the site by heavy, eight wheeler vehicles during the construction stage and believe that, with satellite navigation, it is likely that many lorries will be directed down the full length of Old Rydon Lane rather than approaching along Clyst Road. Such problems had occurred during the construction phase of houses on the Bricknells site; and
- request a change to condition 12 to ensure that all vehicles approach the hotel site via the A379, along Clyst Road and use the emergency vehicle entrance into Sandy Park. This route should also be clearly signposted at both ends of Old Rydon Lane - at the west end on Newcourt Way and at the Clyst Road end.

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

- support comments of Councillor Newby; and
- local residents do not wish to see a delay in the construction of the hotel development but seek an assurance that a Traffic Regulation Order (TRO) will be implemented to prevent heavy vehicles using Old Rydon Lane and a guarantee that, until the TRO is implemented, all access will be via Clyst Road and the emergency vehicle entrance leading to Sandy Park.

Mr Bishop spoke against the application. He raised the following points:-

- during contractual discussions with hotel operators, Kensington Taylor were aware the condition for a One-Way Traffic Regulation Order (TRO) since June 2018. This variation was submitted the day after the Exeter Highways and Traffic Orders Committee approved the TRO. The applicant had assured residents at two separate meetings that if the TRO was approved construction would not go ahead until the TRO was implemented;
- Devon County Council Highways, Exeter Cycling Campaign and 87 other people objected to this Variation. Highways stated that it's at odds with the safety of Old Rydon Lane and the plan is to have the TRO Implemented within 15 weeks of this meeting. Signing a Construction Contract, producing a Construction Plan and completing all other Pre-Commencement conditions will no doubt take that time.
- approval is recommended with a managed Construction Plan that could allow building work to start. However, the planning authority have a poor track record of enforcing Construction Plans in this area. Planning Officers told residents who complained about non-adherence to Construction Plans that they cannot enforce them. Bricknalls, Persimmon, Heritage Homes, IKEA and the Sandy Park Rugby ground extension are examples of this. The building of the Sandy Park training pitch used the safety access road leading into Old Rydon Lane for earth movement lorries despite there being a Construction Plan stating the road should not be used;
- if the signing of the hotel contract is truly at risk then construction vehicles could use the safety access road via the A379 traffic lights and dual carriage way as a temporary solution thus completely avoiding Old Rydon Lane until the TRO is implemented. This was not been mentioned by Kensington Taylor;
- the email from Kensington Taylor to planning officers and the applicant sums up what safety means to this Developer. The £25 million pound investment should not be quoted against a TRO that is safety based. The objectors are baffled as to how the planning department can consider approval and why any contract with Marriott is at risk when clear implementation dates have been issued by Highways and temporary solutions are available; and
- this Variation should be rejected.

Mr Rowe spoke in support of the application. He raised the following points:-

- no construction traffic will enter the site other than via Clyst Road and through the Sandy Park emergency exit/entrance;
- as well as designing the revised traffic system and paying for the order, it is yet to be implemented by the County Council; and
- the Rugby Club will work with the Councils and the residents as it also does not want heavy traffic using Old Rydon Lane.

He responded as follows to Members' queries:-

- the County Council have not reached the advertising stage although the Council was paid about six to eight weeks previously;
- the tendering process includes a requirement for the chosen contractors to access the site via the A369 and Clyst Road and it is not thought that satellite navigation will lead to traffic through Old Rydon Lane.

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

In order to ensure that construction vehicles access the site via the A379 and Clyst Road, as confirmed by the Rugby Club, Members supported the proposal to amend condition 12 by adding after "and traffic routing" in the 6<sup>th</sup> line the words "which shall access the site via the A379 and through the Sandy Park stadium emergency access road and leave the site via Old Rydon Lane in an easterly direction to Clyst Road and on to the Sandygate roundabout".

Members expressed their disappointment that there had been a delay in the implementation of the TRO since its agreement by the Exeter Highways and Traffic Order Committee on 14 January 2019 and that the County Council were not represented at this meeting.

**RESOLVED** that planning permission for the application for Variation of Condition no. 3 of Planning Application Reference Number: 17/0665/OUT granted planning permission on 26/06/2018 to remove requirement for one-way system on Old Rydon Lane to be implemented/completed prior to implementation of permission be approved, subject to 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 26<sup>th</sup> June 2018 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(2) of the Town and Country Planning Act 1990 (as amended).
- 2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 24<sup>th</sup> April, 11<sup>th</sup> July and 8<sup>th</sup> September 2017 in respect of planning application ref no. 17/0665/OUT (including dwg. nos. 1632 L01.04 Rev B, SPH-KT-L01.03-D, SPH-KT-L01.02-D, SPH-KT-L02.01-A, SPH-KT-L03.01-A and 1632L03.02 A) as modified by other conditions of this consent.  
**Reason:** In order to ensure compliance with the approved drawings.
- 3) **Pre-commencement condition:** The development hereby approved (planning application no. 19/0055/VOC) shall not be implemented until a Traffic Regulation Order (TRO) in respect of the introduction of a one-way system (east bound only) along a stretch of Old Rydon Lane between the railway bridge and the application site has been approved by Devon County Council as the relevant Highway Authority.  
**Reason for pre-commencement condition:** To ensure that traffic associated with the servicing of the hotel, and associated use of staff parking spaces provided directly on the hotel site, is capable of being managed to protect the capacity of the highway network and the safety of

pedestrian and cycle users of Old Rydon Lane in the vicinity of the site.

- 4) Unless otherwise agreed in writing by the Local Planning Authority the building hereby approved shall achieve a BREEAM 'excellent' standard as a minimum, and shall achieve 'zero carbon' if commenced on or after 1st January 2019. Prior to commencement of development of such a building the developer shall submit to the Local Planning Authority a BREEAM design stage assessment report to be written by a licensed BREEAM assessor which shall set out the BREEAM score expected to be achieved by the building and the equivalent BREEAM standard to which the score relates. Where this does not meet the BREEAM minimum standard required by this consent the developer shall provide prior to the commencement of development of the building details of what changes will be made to the building to achieve the minimum standard, for the approval of the Local Planning Authority to be given in writing. The building must be completed fully in accordance with any approval given. A BREEAM post-completion report of the building is to be carried out by a licensed BREEAM assessor within three months of substantial completion of the building and shall set out the BREEAM score achieved by the building and the equivalent BREEAM standard to which such score relates.  
**Reason:** To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development. The design stage assessment must be completed prior to commencement of development because the findings may influence the design for all stages of construction.
- 5) **Pre-commencement condition:** Prior to the commencement of the development hereby permitted, a detailed surface water management plan shall be submitted for written approval to the planning authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). Surface water management shall be implemented in line with the approved plan and maintained as such thereafter.  
**Reason for pre-commencement condition:** To protect the integrity of the adjacent M5 motorway embankment and drainage system.
- 6) **Pre-commencement condition:** Prior to the commencement of the development hereby permitted, a detailed landscaping plan and planting schedule for the treatment of the M5 motorway boundary shall be submitted for written approval to the planning authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). Planting shall be undertaken in accordance with the approved schedule and maintained as such thereafter.  
**Reason for pre-commencement condition:** To protect the integrity of the adjacent M5 motorway soft estate.
- 7) Prior to the development hereby permitted being brought into use, a revised travel plan for the whole of the Sandy Park site, incorporating the hotel, shall be submitted for written approval to the planning authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). The travel plan measures shall be implemented in accordance with the agreed plan.  
**Reason:** In order that the development promotes public transport, walking and cycling, and limits the reliance on the private car.
- 8) Prior to the development hereby permitted being brought into use, a revised Match Day Access Strategy shall be submitted for written approval to the

planning authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). Thereafter the hotel shall only be used and operated in accordance with the approved Match Day Access Strategy.

**Reason:** In the interests of highway safety, the efficient operation of the local and strategic road networks, and to safeguard the amenities of neighbouring residents.

- 9) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.  
**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.
- 10) **Pre-commencement condition:** A detailed scheme for landscaping, including the planting of trees and/or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no development shall take place until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.  
**Reason for pre-commencement condition:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 11) 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.
- 12) **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, to access the site from the A379 through the Sandy Park stadium Car Park and emergency access road and leave the site via Old Rydon Lane in an easterly direction to Clyst Road and on to the M5 Junction 30 roundabout (or other such route as may be agreed in writing by the Local Planning Authority in consultation with Devon County Council as the Highway Authority)", 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.

**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.

- 13) 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:** In the interests of residential amenity.
- 14) **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.
- 15) Noise from mechanical building services plant shall not exceed the limits set in Table 6.5 of the Sandy Park Hotel Noise Impact Assessment report dated April 2017 by WSP Parsons Brinckerhoff.  
**Reason:** In the interests of the residential amenity of the occupants of surrounding properties.
- 16) **Pre-commencement condition:** The applicant shall undertake a noise impact assessment for this application, which shall be submitted and approved in writing prior to commencement of the development. This report shall consider the impact of noise from the development on local receptors and shall include noise from patrons, deliveries, collections and events. If, following the above assessment, the LPA concludes that noise mitigation measures are required, the applicant shall then submit a scheme of works to ensure that the development does not have a significant negative impact on local amenity. These measures shall be agreed in writing by the LPA and shall be implemented prior to and throughout the occupation of the development.  
**Reason for pre-commencement condition:** In the interests of the residential amenity of the occupants of surrounding properties.
- 17) **Pre-commencement condition:** Prior to the commencement of the development hereby approved a Wildlife Plan which demonstrates how the proposed development has been designed to enhance the ecological interest of the site, and how it will be managed in perpetuity to enhance wildlife has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out and managed strictly in accordance with the approved measures and provisions of the Wildlife Plan.

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

- 18) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, National Planning Policy Guidance and the Department for Environment, Food and Rural Affairs Sustainable Drainage Systems Non-statutory technical standards for sustainable drainage systems, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) Include a timetable for its implementation; and
  - iii) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

**Reason:** To ensure the satisfactory drainage of the development.

- 19) **Pre-commencement condition:** The development shall not begin until full details of drainage works have been submitted to and approved by the Local Planning Authority in writing.

**Reason for pre-commencement condition:** To ensure the satisfactory drainage of the development.

- 20) No more than a maximum of 40 staff/servicing parking spaces shall be provided on the site of the hotel building itself i.e. on the land on the south of Old Rydon Lane, and these spaces shall only be used by staff/servicing vehicles and not at all by hotel guests or visiting members of the public.

**Reason:** To ensure that highway impacts of the scheme on Old Rydon Lane are limited to staff/servicing related traffic.

- 21) No part of the development hereby approved shall be brought into its intended use until the footpath (of at least 3m in width) and crossing of Old Rydon Lane located adjacent to the frontage of the building, have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

**Reason:** To ensure that adequate facilities are available for the traffic attracted to the site.

- 22) Prior to the construction of any bridge over the public highway, a detailed Approval In Principle for the footbridge shall be submitted and approved in writing by the Local Highway Authority (Devon County Council).

**Reason:** To ensure the integrity of adjacent structures and land.

- 23) No part of development shall commence until a Car Park Management Plan

has been submitted to and agreed in writing by the Local Planning Authority outlining how adequate car parking will be provided for the onsite guests/staff/deliveries/Match Day uses, and be maintained during construction works on site, and once the hotel is open for use.

**Reason:** To ensure that adequate onsite parking provision is provided for all uses.

- 24) No part of the development hereby approved shall be commenced until details (including timeframe for delivery) of the access into the staff car park/delivery area have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of permeability and encouragement of the use of sustainable modes of transport.

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#### **LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the City Development Manager was submitted.

**RESOLVED** that the report be noted.

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#### **APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

**RESOLVED** that the report be noted.

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#### **SITE INSPECTION PARTY**

**RESOLVED** that the next Site Inspection Party will be held on Tuesday 2 April 2019 at 9.30 a.m. The Councillors attending will be Councillors Harvey, Mrs Henson and Edwards. There will also be a site inspection in respect of the Fairpark Almshouse proposal and Bull Meadow for all Committee Members.

(The meeting commenced at 5.30 pm and closed at 6.11 pm)

Chair

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

**APPLICATION NO:** 18/0873/FUL

**APPLICANT:** Cygnet Health Care (C/o Leith Planning Limited)

**PROPOSAL:** The construction of a 54-bed independent hospital (Use Class C2) with access, car parking, landscaping/open space and associated works.

**LOCATION:** Land At Ribston Avenue  
Ribston Avenue  
Exeter  
EX1 3QE

## **BACKGROUND**

The Council, through its Planning Committee, previously considered the above planning application at its meeting on the 3<sup>rd</sup> December 2018. The original officer report to that Planning Committee, including the associated Update Sheet, is attached – for information purposes only - as Appendix A to this report. The Planning Committee resolved to grant planning permission in accordance with the recommendation contained in that report.

Subsequently, and prior to the decision being issued, the Hill Barton Residents' Association (HBRA) submitted a letter before claim in relation to a proposed Judicial Review (JR) of the Council's decision. Four grounds of challenge were cited which are summarised as follows: (1) Failure by the Council to discharge its duty pursuant to s11(2) of the Children Act 2004 by (a) failing to consult properly with relevant bodies in respect of issues relating to the safeguarding children arising from the proposal, and (b) not bringing the concerns of the Headmistress of St Nicholas Roman Catholic Primary School specifically to members' attention; (2) Failure by Devon County Council (DCC) to declare a financial interest and undue influence upon it as a statutory consultee (highways and flooding); (3) Failure to impose a condition excluding the use of the development within Class C2 (a) of the Town and Country Planning (Use Classes) Order 1987 as amended (the Use Classes Order); and (4) Failure to secure a S106 contribution for the benefit of the School.

Responding to the claim (which had by that time been issued), the Council agreed that it should re-consider its decision in light of the matters referred to in ground 1 and that, as part of that process, it should undertake appropriate further consultation with relevant bodies concerning the issue of safeguarding. It rejected proposed grounds 2, 3 and 4. HBRA subsequently discontinued its claim, with no order as to costs. So far as ground 2 is concerned, there is no reason why DCC should have declared a financial interest, and no reason to suppose that its interest in the application site has had any bearing on its technical input to the planning process. Further explanation of the rejection of grounds 3 and 4 is referred to under 'Nature of proposed use including use class ...' and 'Planning obligations (Section 106)' below.

This Report has been prepared in substitution for the original officer report, to enable the committee to consider its decision on this application afresh. The decision remains one for

members, to be taken having regard to the development plan and all material considerations. It is not relevant, in the context described above, to consider whether there has been a material change in circumstances since the Committee's previous decision. Representations made attract weight moreover, in that context, according to their significance and merit whether received before or after 3 December 2018.

### **HISTORY OF SITE**

There is no planning history relating to the application site which is considered directly relevant to the current application.

The adjoining land, also formerly part of the old St Lukes School was the subject of the following application for residential redevelopment that was refused by the City Council and subsequently the subject of an appeal. This appeal was subsequently allowed and planning permission granted by the Planning Inspectorate on 28<sup>th</sup> February 2019 –

18/0534/FUL - Construction of 48 dwellings (Use Class C3), means of access, public open space and associated infrastructure.

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

The application site extends to approximately 1ha and slopes gently from north to south. The site is bounded to the north by existing residential properties on Sargent Close and Ribston Avenue, to the east by Ribston Avenue, to the south by land also formerly comprising part of the School which has recently been the subject of an application for residential redevelopment that was allowed on appeal as indicated above, and to the west by the rear of properties on Warwick Road. Along this western boundary there is a belt of existing trees which provide a screen between those properties and the application site. There is an existing access point in the corner of the site at the junction of Ribston and Bramley Avenue. Further to the south of the site, beyond the residential redevelopment site referred to above, lies the site of St Nicholas Catholic Primary School.

Planning permission is sought for the construction of a 54 bed secure independent hospital that will specialise in treatment of patients with mental health care needs, along with associated parking, landscaping and boundary treatments. Vehicular access to the facility is proposed by an access onto Ribston Avenue. The proposal also includes the provision of an element of public open space on the northern part of the site. The hospital building will be located on the southern part of the site with parking and servicing to the front and rear of the building. An internal access road connects the front and rear parking areas running between the hospital site and the open space. The hospital building proposed is predominantly 2 storey in height and fencing will separate the hospital and grounds from the open space.

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

The application is accompanied by the following supporting documents –

- Planning Statement
- Explanation of service/facility proposed
- Design & Access Statement
- Level 1 Flood Risk Assessment & Drainage Strategy
- Drainage Strategy

- Preliminary Ecological Appraisal
- Transport Statement
- Travel Plan Statement
- Statement of Archaeological Potential, Impact and Mitigation
- Arboricultural Report
- Statement of Public Consultation

## **REPRESENTATIONS**

Submitted prior to 3 December 2018

212 letters of representation were received raising the following matters –

- Lack of parking for staff/patients/visitors leading to more parking congestion and associated highway safety implications and potential hindrance of access for emerging vehicles in locality
- Security – fencing, patient controls on access/leaving facility, risk of escape
- Nature of patients – Mental health, severity of risk, potentially disruptive and violent
- Inappropriate location – proximity to school and in residential area with many elderly residents
  - Safety of community generally but especially safeguarding of school children/young children in area given potential backgrounds of patients
  - Irresponsible to allow it and endanger local community
  - Exposure to inappropriate language, behaviour/activities
  - Perception of fear – in relation to both safety and crime
  - Antisocial behaviour
  - Adverse impact on attractiveness of the school as a choice for future parents
  - Poor location/environment for patients
- Increased traffic – congestion, roads inappropriate/adequate, already a ‘rat run’, roads already in poor condition
- Inadequate infrastructure to serve facility – road conditions etc.
- Impact on bus service – increased use, exacerbate difficulties for bus access on roads
- Lack of cycle path on site, level and location of cycle parking provision, facilities for staff cycling to work
- Track record/competency of operator – poor treatment of patients CQC (Care Quality Commission) findings/concerns at their other hospitals
  - Staffing levels/skills
  - Administration/record keeping
  - Quality of facility and safety
  - Security
- Other better locations e.g. industrial estates or rural areas, Cranbrook, Former L&M headquarters at Clyst St Mary, somewhere in a new development where people can choose to live near it
- Lack of consultation – misleading/vague by developer and not extensive enough by Council
- Lack of adequate external space for patients
- Noise pollution
- Air pollution

- General disturbance to local community arising from shift work, change overs at unsociable hours
- Ability to staff facility – drain on NHS staff
- Demand for such a facility (Need)
- Building too big/overdevelopment
  - Loss of view
  - Loss of privacy to surrounding properties
  - Overshadowing/overbearing
  - Design out of keeping with area
- 24 hour operation – impact on surrounding residential area
- Why is open space provided
  - encourage youth gathering at night
  - better used to provide additional parking or amenity space for patients
- Why remove existing fence around site
- Impact on property values/saleability
- Should remain in educational use, thought there was a covenant on land relating to community/education use only
- Lack of open space/play areas locally
- Increase undesirable activities in locality – drug taking/dealing
- Disruption during construction – traffic, noise, dust
- Construction traffic – safety and amenity issues
- Not want the community wants
- Better uses for site – more community or business focused
- If allowed a very high fence around site is required

Submitted since 3 December 2018

In addition to the specific consultations referred to below (under ‘CONSULTATIONS (UPDATE)’), all the neighbouring properties originally notified of the application, along with everyone who either made a representation on the proposal or submitted formal complaints following the Planning Committee meeting on the 3<sup>rd</sup> December, were notified that the Council would be reconsidering the application. In this notification it was highlighted that all previous representations received in respect of the application would be referred to as part of the reconsideration of the application. The original officer report included a summary of the issues raised in representations received up to the time of the Planning Committee on the 3<sup>rd</sup> December. These are also listed above.

This report includes a summary of subsequent representations in addition to a summary of other consultation responses received post that Planning Committee. The original summary included reference to matters raised by the Head Teacher of St Nicholas RC Primary School (without reference to their source). It should be noted that the Head Teacher has subsequently been formally consulted on the application, with particular reference to her views from a safeguarding perspective, and that her response is set out in detail below.

Since the 3<sup>rd</sup> December the Council received a number of formal complaints regarding the consideration of the application by and decision of the Planning Committee. The issues raised in those complaints (x20) and in additional representations (x 70) received between then and the preparation of this supplemental report are summarised below:-

- Lack of consultation and consideration regarding safeguarding/welfare of children

- Failure to consider comments of Head Teacher appropriately and pay sufficient regard to her concerns
- Lack of security measures – fence heights not in accordance with relevant standards
- Lack of communication/consultation with Police
- Use class designation – should be C2(a) not C2 – reference to NHS definitions of low secure facilities and comparison to other facilities i.e. recent PICU and Mother/Baby units at Wonford
- Track record of Cygnet on security (reference to historical press reports), patient care and circumventing planning system
- Absence of S106 agreement to secure financial assistance for school with resultant costs of increasing its security or Police with additional policing costs
- DCC financial interest in site – absence of declaration of interest, vested interest influencing their consultation responses
- Lack of condition restricting future change of use C2 to C2(a)
- Highway/transportation impacts – adequacy of information submitted and its assessment by Highway Authority (DCC)
- Poor quality environment for patients – external noise impacts such as school and aircraft flight paths
- Why was ‘fear’ dismissed as material consideration by Committee
- Danger presented by proposal to both young children attending school and vulnerable/elderly people living in vicinity
- Conduct of Planning Committee – pre-determination, lack of questions, politically motivated decision, public confidence, capacity of venue
- Question mark over professionalism and integrity of planning officers
- Profit from healthcare provision is unacceptable – provision should be by NHS
- Impact on property values locally
- Who regulates operators of such facilities?
- Access to and useability of open space, insufficient amount
- Loss of existing open space
- Disruption during construction
- Question need for facility – lack of consultation with Devon NHS Trust
- Question relevance of case law quoted to substantiate use class i.e. out of date, different circumstances
- Patient profiles i.e. people posing ‘significant risk of harm to others’ – can’t put figure on risk levels but can’t guarantee 100% confidence no risk – no risk however small is acceptable – risk of escape
- Safeguarding – children could witness actions or behaviours at young impressionable age that they shouldn’t e.g. restraint, foul language, aggression
- Proximity of school may hinder patient rehabilitation/treatment i.e. through presence/awareness of children nearby
- Design of facility not fit for purpose
- Lack of adequate car parking
- Impact on financial viability of school – withdrawal of pupils/lower applications – consequent impact on choice contrary to NPPF para. 94
- Contrary to NPPF section 8 paras 91b and 95a – Promoting Healthy and Safe Communities
- Impact of fear in locality on health of surrounding population
- Types/categories of patients and their related security needs – reference to NHS categorisation of patients – relevance to use class consideration
- Biased officer position in favour of applicant – lack of impartiality

- Constitutes over development of site
- Inappropriate location contrary to policy i.e. facilities benefiting city or wider community should where possible be sited in a city centre location
- Must be other better locations
- Should impose condition preventing treatment of any patients from Criminal Justice System
- Should contribute to school projects e.g. sensory garden – honouring previous statements by applicants in this regard
- Poor public consultation
- Misleading nature of proposal
- Increased pressure on emergency services – associated disturbance to local residents
- Why are applicant's discussions with Police re security confidential?
- Temptation of local shopping parade as an alcohol source for patients – consequential potential impact on shops alcohol licence in future
- Lack of weight attached to sheer number of objections
- Incorrect comparison with Wrexham site in officer report.

### **CONSULTATIONS (ORIGINAL)**

**County Head of Planning, Transportation and Environment** – Concludes no objection and recommends various conditions relating to transportation matters such as the delivery of pedestrian access points, provision of parking/access prior to use of building commencing, cycle parking details, CEMP and Travel Plan. The response includes detailed comments on transportation matters associated with the proposal which will be referred to later in this report.

**Environmental Health** – Initially identified a need for additional information comprising an Air Quality Assessment, land contamination risk assessment and background noise survey. Further information in respect of these matters has subsequently been provided. The submitted documents are considered acceptable and therefore in the event of approval the following conditions have also been recommended – CEMP, land contamination, noise and kitchen extraction.

**Wales & West Utilities** – “Wales & West have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.”

**South West Water** – Highlight proximity of a public sewer, confirm clean potable water can be provided for the development, comment on surface water drainage and need to ensure this is discharged as high up the hierarchy of drainage options as is reasonably practicable. Confirm no concerns in terms of drainage connections.

**DCC (Lead Local Flood Authority)** – Refer to Core Strategy Policy CP12 (mitigation of flood risk) and identify further additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

**Police (Designing Out Crime Officer)** – Comments on the proposed boundary treatments, physical security standards e.g. window/door designs, internal arrangements, lighting, CCTV and sought confirmation the development will be constructed to ‘Secure by Design’ standards.

**OFSTED** – No comments received.

### **CONSULTATIONS (UPDATE)**

The additional consultations undertaken since the original report was considered by Planning Committee on the 3<sup>rd</sup> December are set out below along with the relevant responses –

- Environmental Health on noise matters
- Police Designing Out Crime Team
- NHS – Safeguarding
- Safeguarding Adults Board (DCC)
- Safeguarding Children Board (DCC) – now Devon Children and Families Partnership
- Plymouth Diocese – Safeguarding Lead
- Head Teacher St Nicholas RC Primary School
- Plymouth CAST (Multi-academy trust of 36 Catholic Schools across South West of England)
- Devon County Council (DCC) as Local Education Authority (LEA)
- Devon Partnership NHS Trust

Copies of the full consultation responses are available via the Council’s website and can also be provided to Members prior to the Committee meeting by request.

#### Responses received

Environmental Health were consulted further in respect of representations made about the impact of noise sources such as the nearby School and Exeter Airport upon patients’ amenity, i.e. is the site suitable in acoustic terms for occupation by patients. The Council’s Environmental Health Officer responded that in their professional judgement the site is suitable for residential use without any mitigation against noise from external sources. However, in case the suitable ambient noise climate for this use is different from housing development it was suggested the applicant could be asked to confirm whether the development would meet the relevant standards.

Note. This was done and the applicant’s agent has responded as follows –

“I can also confirm that in response to the Environmental Health Officer’s comments received 19<sup>th</sup> February 2019, the development has been designed to achieve the acoustic design guidance contained within Health Technical Memorandum (HTM) 08-01: Acoustics, which gives comprehensive advice and guidance of the design, installation and operation of specialised building and engineering technology used in the delivery of healthcare.”

It should also be noted that the development would have to comply with the relevant Building Regulations. Given this, and the statement by the agent above explaining that the proposal

has been designed to accord with specialist advice and guidance, there is not considered to be any justifiable reason to withhold consent on grounds of concern about the acoustic environment for potential patients.

#### Police Designing Out Crime Team

Additional consultation was undertaken with the Police in light of representations suggesting that they had applied incorrect security guidelines to the scheme (i.e. Secure by Design (for hospitals) rather than CCQI June 2012 standards for Low Secure Services), that the perimeter fence was too low in these circumstances, and reference to the failure of the Police to request and secure a S106 contribution towards additional policing costs associated with the scheme.

The Police Designing Out Crime Team responded to the additional consultation as follows –

“The issue of the planning use class being incorrect is we feel a matter for the planning authority to determine.

Regarding the CCQI document, we have checked with our former colleague who supplied the original Police comments and neither he nor ourselves were previously aware of this document. Our comments were therefore based upon the principles of SBD (Secured By Design) which is the national Police crime prevention initiative.

However, we do acknowledge that the CCQI document referred to, has been written specifically for this type of facility and have found an updated version of the document entitled *Standards for Forensic Mental Health Services: Low and Medium Secure Care – Second Edition June 2017*. It makes a large number of detailed recommendations regarding standards which should be incorporated.

Therefore if it can be established that the CCQI advice is currently regarded as best practice amongst relevant health care professionals then it would appear entirely appropriate to make full reference to this advice.

In response to the specific issue of the perimeter fence, under the ‘Physical Security’ heading on page 6 the CCQI document states:

*The secure perimeter is in line with the planning specification for the level of security offered, is protected against climbing, and is easily observable.*

*Guidance: The secure external perimeter:*

- *is formed by buildings;*
- *is formed by buildings connected with fencing (5.2 m high for MSU and 3m high for LSU);*
- *joins the reception and surrounds the remainder of the unit;*
- *surrounds the whole unit.*

*Where fencing is used it must be weld mesh (3mm diameter and 13mm centres vertically and 75mm centres horizontally).<sup>1</sup>*

If, as stated this advice is still considered best practice then we can see no obvious reason not to follow this guidance for this particular site.

With regard to the point about s.106 monies we are unaware of the background detail to the hospital in Avon and Somerset. From the details provided by Mr Goldsmith this appears to relate to a planning application dated from 2010 with the agreement regarding s.106 monies signed in 2013.

This matter was raised with the planning officer previously. His opinion was that, given the use class under which the proposed Exeter facility had been placed, Police would not have been successful in seeking any financial contributions for policing.

This opinion was as expected. If the planning use class were to change then it may be appropriate to seek further advice on this matter.”

### Safeguarding Consultations

Having acknowledged that ‘safeguarding’ was one of the main material considerations in relation to this proposal, and a matter that needed more detailed consideration, further consultations with relevant bodies was undertaken as set out below, along with their relevant responses.

### NHS – Safeguarding

The NHS were consulted specifically from a safeguarding perspective and the Chief Nursing officer of the Devon and South Devon and Torbay Clinical Commissioning Group has provided a response as follows –

“Thank you for your email correspondence on 04 February 2019 inviting our comments from a safeguarding perspective, to the planning application for a 54 bedded independent mental health hospital.

Increasing acute mental health facilities is in line with our understanding of the needs of the population. If staffed appropriately with the industry standard clinical processes and policies, the proposal should not pose a risk above that of our other units in the area.

In considering the application we have sought the views of our Head of Safeguarding, Associate Chief Nursing Officer and Chair of our Safeguarding Steering Group. From their review of the planning application we would make the following key points:

- The proposal appears to have had close liaison with Devon Partnership NHS Trust as a mental health provider. All areas of provision are likely to advantage the local population in the provision of local specialist care which can often only be accessed outside of Devon;
- The 54 adult beds are 17 acute mental health beds, 21 beds for men requiring rehabilitation in a locked environment and 16 beds for women who require a low secure environment for emotional unstable personality disorder. As a new build, risks can be diminished due to good planning and design such as access to outside areas in a courtyard format and design to enable ease of access to nursing and support staff;

- The patient group will require leave at times to access local services as part of their rehabilitation and the provider would need to institute clear, robust risk management processes to ensure there is the least risk to the public as possible given the broad spectrum of patients likely to access the service;
- Consideration should also be given to the potential risks and safety of the patients and staff from members of the public who may not view the facility positively;

Modern design, clinical staffing and policy safeguards should provide a level of assurance to the local population of the safety of the proposal regardless of the proximity to the population of Exeter, including local amenities.

We have also considered the workforce impacts and the implementation of the plan may put strain on the local nurse registrant economy and plans would need to be in place for staffing that would not de-stabilise other mental health care in Devon and Exeter in particular. However new environments such as this may also attract skilled staff into the area which would enhance the local mental health workforce.

In addition, a response is being drafted from the safeguarding partnership that you will be receiving in due course.”

This further response is referred to below.

#### Safeguarding Adults Board (DCC)

Responded as follows –

“The Chair of the Devon Safeguarding Adults Board, Siân Walker has responded as follows: commenting on a planning application is beyond the remit of a Safeguarding Adults Board and does not fall within its responsibilities.”

#### Safeguarding Children Board (DCC) – now Devon Children and Families Partnership

This consultation was originally sent to MASH (i.e. Multi Agency Safeguarding Hub) who were identified as the local Child Safeguarding Board on the DCC website. It subsequently transpired that the Devon Children and Families Partnership has replaced MASH as the local safeguarding children board and hence the consultation response has been provided by them as follows -

“Thank you providing the opportunity to comment on this planning application in relation to safeguarding issues. As the Chair of the Devon Children and Families Partnership Executive I am providing this response, which provides the sole, comprehensive and formal views of the Partnership in relation to safeguarding. Service areas represented included on the Executive cover:

- Education
- Children’s Social Care
- Public Health
- Devon and Cornwall Police
- Health Commissioning

- District Council functions in particular housing

The Devon Children and Families Partnership Executive welcomes additional, high quality mental health provision and recognises the importance of this type of facility for people with mental health disorders. The Executive would like to make the following points:

- The provider is expected to have appropriate safeguarding measures in place and to conform to CQC standards, and, thereby, safeguarding risks should be appropriately mitigated
- It is the provider's responsibility to ensure risk mitigation and appropriate governance of risk to both patients and the public, through the design and management of the provision.
- The planning application is for a category C2, mental health hospital. It is not clear that a separate planning application would be required should the facility wish to extend its brief and become a C2A provision. The Executive believes that a requirement for a separate planning application should be made clear.
- The close proximity to a primary school is a concern, in particular the planned rear exit of the facility adjoins the school's rear exit. The provider should be required to ensure appropriate screening to minimise the risk of children and families being exposed to behaviours which they might find frightening
- The Executive suggests that the planning authority should ensure a Community Impact Assessment is undertaken.

Subject to the Planning Authority's careful consideration of bullet points three to five, the Devon Children and Families Partnership Executive does not object to the application and notes that the facility provides a much welcome enhancement of existing mental health provision in Devon."

Note. The first three of these points (bullets) are addressed in the course of discussion of the main material planning considerations below. The fourth reflects a misunderstanding also referred to there. So far as the fifth point is concerned, officers consider that members do now have sufficient information to enable them to determine the application, and that no further assessment is required.

#### Plymouth Diocese – Safeguarding Lead

Responded as follows: -

"Whilst this is primarily an issue for CAST (i.e. Catholic Academy Schools Trust) and the Head Teacher and Governors at St Nicholas Primary, I do feel it is appropriate to respond as the Safeguarding Lead for the Diocese.

Having spent 40 year working in the world of protecting the young and vulnerable ( 30+ years as a Police Officer) during which I was involved in partnership working including mental health, I am acutely aware of the need for the facility as set out. I am also acutely aware of the potential problems that those in need of acute services can bring with them and that placing such a facility is always going to be difficult and invariably subject to local objections wherever you would look to site it.

From experience such a facility will have clients coming and going, I understand the provider would look to run an open service, by the nature of the facility most will have a difficult

mental health diagnosis and may to one degree or another pose a potential risk to themselves and others.

There are in addition many well documented instances where tragically those suffering from mental health conditions have gone on to harm others including murder and rape. Has recently happened in Paignton which I believe was related to a Cygnet facility.

In addition would those running the facility be in able to control who was referred to such a facility to prevent anyone who potentially posed a significant risk to children from coming to that location. From many years' experience I strongly doubt it.

From a safeguarding perspective I am sure that I do not need to remind you that in law (Children's Act) the protection of children is of paramount importance and the welfare of the child should be the overriding factor in all decision making.

Clearly given the above concerns and the potential risk to children I feel that I am unable to support the application. I hope that a more appropriate location can be found but feel that the current proposed site is far from suitable."

Head Teacher St Nicholas RC Primary School

Responded as follows:-

"Many thanks for your letter of 1st February 2019. I am pleased that the Council accepts that the committee failed to take sufficient account of my concerns as the Headteacher of St. Nicholas Catholic Primary School and accepts that its consideration of and consultation on the issues of risk and safeguarding were inadequate. Having attended the Planning Committee meeting on the 3rd December 2018 I was shocked at the level of disregard for the safeguarding of my pupils and the wider school community at St Nicholas.

I very much hope that the Councillors determining this application will accept that in writing to object to this proposed development, I do so because of my concern, as Headteacher, for the well-being of the pupils in my care and because of my concerns for this school.

In November 2018, St Nicholas had its Ofsted inspection and the recently published report acknowledges that our school provides effective, high quality education for the local and wider Exeter community: I am delighted that we have been rated as "Good" and that in 2015 we were rated as "Outstanding" on the issue of safeguarding. I mention this not only because they are achievements worth shouting about but because they are relevant to my objection.

My objection is not to the provision of mental health services: these are much needed and the Planning Committee should be in no doubt that I am aware of how important these facilities are because we work closely with the Early Help for Mental Health Team, we are a Mental Health Champion School, a third of our learners have additional needs themselves and we have a number of risk assessments in place for individual children who are significantly vulnerable.

You will be aware that my previous letter raised the issue of safeguarding as my primary area of concern. It remains the main area of concern now. I would like to make clear that when talking about safeguarding, I am addressing the issues of risk, child protection and the welfare of my pupils and, in addition, the staff and wider school community. I attended the meeting on 3<sup>rd</sup> December 2018 and was troubled by the Planning Officer's statement to the Committee that there was "nothing of relevance" to consider in regards to safeguarding.

With the greatest of respect, such comment is not for a Planning Officer to make but for those with the statutory responsibility for child protection to determine. I am the Designated Safeguarding Lead for my school and I have very real concerns about safeguarding and this development. I understand from my conversations with the local education authority that they too have concerns. I have read some of the documentation submitted on behalf of Cygnet and am troubled at the almost dismissive approach to safeguarding.

I make the following points which I trust will be taken into account as material considerations by the Committee:

### **a) Viability of the school**

Sadly, the number of applications for Reception 2019 is low and I know of parents who have not applied to St Nicholas as a direct result of the decision on 3rd December 2018 to seemingly approve the application for a secure hospital. This is going to have a significant impact on my school's budget which, as you will know, is already stretched. If numbers continue at this low level or fall further as a result of this facility being located next to the school then our budget will be significantly affected and St Nicholas, which, as set out above, you know to provide effective and high quality education for the community, could become unviable.

This is a material fact that the Committee should consider. St Nicholas is the only Catholic primary school within the City and it provides education to not only children in the immediate neighbourhood but for children across the city. The National Planning Policy Framework (July 2018) states in paragraph 94:

“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”

I am worried about the viability of my school because we have had parents choose not to send their children here because of this facility being located nearby. There has not been any collaborative discussion to identify and resolve key planning issues before this application was submitted and there has been no consultation with Devon Childrens' and Families Partnership (the body responsible for safeguarding children in Devon) or Devon's Education and Learning department.

### **b) The nature of the patients treated at this hospital is relevant**

I understand that this development is to treat patients who are assessed as “acute” to “low-secure”. I have read the NHS England guidance which states that “low secure services provide care and treatment for those who present a significant risk of harm to others”.

The acceptance criteria for admission to low secure services include:

- Presence of a mental disorder which is of a nature and/or degree warranting detention in hospital for medical treatment under the Mental Health Act
- Patients predominantly present a significant risk of harm to others and to manage this risk requires specialist risk management procedures and specialist treatment interventions;
- Prisoners suitable for transfer to low secure inpatient care will generally be charged with, or have been convicted of, a specified violent or sexual offence as defined in Schedule 15 of the Criminal Justice Act 2003 or another serious offence, such as arson;
- Patients may be accepted without criminal charges pending, where there is clear evidence of a significant risk to others in the context of mental disorder. There will generally be a pattern of assaults and escalating threats;
- Potential to benefit from the treatment/assessment provided or to prevent deterioration;
- The patient is not safely managed in a non-secure environment;
- Patient may present a risk of escape;
- Patients with a mental disorder directed to conditions of low security

Given the above profile of potential patients at this facility, I do not believe it should be situated next to my school. We currently have 350 children aged 3 – 11 on roll at St Nicholas and it is not only the fact that the patients present a risk of escape but the risk profile of those who may escape which creates the safeguarding problem.

If the Committee decides to approve the development then, I ask that as part of the approval, conditions and restrictions are imposed which will help to ensure the safety and well-being of my pupils. I have already been approached by many parents since the decision

on the 3<sup>rd</sup> December asking what additional measures will be put in place and I cannot answer them because I have very much been left "in the dark".

**c) No restriction on use of land**

The provision is for a Category C2 Low Secure Unit for patients with acute mental health conditions. The list above demonstrates the minimum need of patients at the hospital. The Committee, in its original decision, failed to propose any restriction on the use of the land. Whilst Cygnet Healthcare Trust have stated that they would not admit patients from the criminal justice system or those who were higher risk there is nothing to stop them, if planning permission is granted, from later changing their operational statement/admissions criteria and accepting higher risk patients or those they promised not to accept. This is entirely relevant to safeguarding children and, whilst I hope the Committee will refuse planning permission, if the application is instead approved, I would suggest that a restriction is placed on the use of the land so that it cannot be used for the treatment of anyone other than acute to low secure patients and must not be used for the treatment of anyone involved with the criminal justice system.

Given that such an assurance has already been given by Cygnet, I fail to see how it is anything other than reasonable, proportionate and appropriate to hold them to their word. If they are prepared to give such assurance in writing, they cannot possibly object to the restriction being part of the planning approval: it would go some way to reducing the safeguarding risk.

**d) Devon County Council propose opening a foot / cycle path between Warwick Road and Ribston Avenue which will allow access along the school boundary.**

I understand the need for rehabilitation, however, this footpath will enable members of the general public, including patients on supervised or unsupervised release to walk immediately next to our play areas. Given the acceptance criteria for admission to low secure services noted above, it is entirely relevant on a regular, day to day basis that the protection of children is considered.

Again, I believe that the fact that there is the potential for contact with pupils is grounds for refusal but, if the Committee approves the application, I would ask that Cygnet meet the financial and practical costs of providing secure perimeter fencing around my school and any other security measures which are recommended through discussions with me, the local education authority and the police. Again, I cannot see how such a requirement is anything other than reasonable, proportionate and appropriate in the event that approval is granted.

**e) No legal requirement for Section 106 Funding**

I have read the supporting material which has been put forward on behalf of Cygnet. In both their Planning Statement of June 2018 and in their response to public consultation of November 2018, they mention being in discussion with the school about providing a sensory garden or similar project via a s.106 agreement.

I was shocked to discover, on enquiry after the decision on the 3<sup>rd</sup> December, that there is no legal requirement, as part of the planning application, to provide Section 106 funding to the school for anything, whether that be improved secure fencing or funding for a project. As I have set out above, given the location of the development as a minimum I would have hoped that Cygnet Healthcare should be required to fund the projects they have promised or hinted at and contribute to the community and to improving the security of my school.

At a time when my school's budget is so stretched that we are already having to reduce staffing with the consequent impact on learning I fail to understand why this Committee has not and does not require Cygnet to bear the costs as opposed to expecting me to do so. For these reasons, I very much hope that you will refuse application for planning permission. If, however, you do grant permission, then I would also hope that you impose restrictions on the use of the hospital so that the applicant is held to its promises and require them to bear the financial responsibility for measures necessary to safeguard my school's pupils as well as to contribute to the school in the way promised in their public statements."

Plymouth CAST (Multi-academy trust of 36 Catholic Schools across South West of England)

Responded as follows –

“Having seen the response from the school I will not be sending anything additional, but would like to say that the Trust is fully supportive of the submission made by our school, St Nicholas Exeter.”

Devon County Council (DCC) as Local Education Authority (LEA)

Consultation with DCC as the LEA generated two consultation response as follows, one from the Chief Planner and the other on behalf of the Head of Education and Learning.

Chief Planner Responded as follows:

“Thank you providing the opportunity to comment on this planning application in relation to safeguarding issues. This response provides the formal views of Devon County Council solely in relation to safeguarding. It does not cover other planning issues which have been considered through the previous consultation. The response has been coordinated by the planning team and is submitted on behalf of the following service areas:

- Education;
- Public health; and
- Children’s services.

This response is separated into sections relating to each of the subject areas set out above.

**Education**

In considering this proposal, the Local Education Authority (LEA) has made the necessary assumption that the hospital will be run in compliance with the national guidelines in relation to this type of provision. Such guidelines will ensure that the safety of patients and the local community, including children attending the nearby school, are safeguarded appropriately. In this context, the LEA has no evidence to suggest that there should be specific concerns in relation to this proposal and therefore does not object to this application.

In addition, the LEA makes two specific points:

1. The planning application is for a category C2, mental health hospital. If the use of the facility was to be revised so it became a C2A facility comprising a secure residential institution, the assumption is that it would need to be subject to a separate planning application and further associated consultation processes.
2. In order to minimise overlooking, a solid fence should be provided on the southern edge of the hospital site, within the red line boundary, to augment the planting proposed. This could be secured through a planning condition.

**Public health**

The response to this application is made in the context of the County Council’s role of promoting health equality across Devon and providing good quality and accessible healthcare, objectives which are delivered in partnership with the National Health Service. In this regard, the County Council is concerned with improving the health of the wider Devon community.

In determining the potential impact of this application, the evidence of health care need as identified within the 2018 Joint Strategic Needs Assessment (JSNA) for Devon has been considered. The JSNA overview identifies a complex picture with regard to mental health, however in general terms, Devon has lower self-reported wellbeing than nationally but higher rates of self-harm and suicide. In terms of Exeter specifically, the city has lower estimates of

self-reported well-being than Devon as a whole while the rate of those accessing psychological therapies is lower than for the County. In broad terms, this suggests that mental health facilities such as that proposed would help to meet a local need.

Although there could be a local need for such a facility, the independent status of the hospital could mean that the facility is used for out of area placements. The proposal should also be seen in the context of the recently opened psychiatric intensive care unit (PICU) at Wonford House which will help to meet local, specific needs.

Specifically, in relation to the issue of safeguarding for patients, the proposed facility would have to conform to mandatory standards from the Care Quality Commission (CQC) regardless of the provider. On the assumption that such standards are met, safeguarding issues should not occur.

In consideration of all of the factors above, in terms of its public health responsibility, the County Council does not object to the application and notes that the facility would help make provision for the local area and beyond.

### **Children's services**

An important consideration regarding a mental health hospital is the potential impact on children in terms of safeguarding. The proposed facility on Ribston Avenue will not make provision for children and therefore the safeguarding of children as potential patients is not pertinent to this application. The issue for discussion is the potential impact of the facility in terms of safeguarding in relation to the local area which includes a number of residential properties and St Nicholas Catholic Primary School. When considering this issue, it is assumed that the proposed facility would conform to CQC standards.

In order to consider the risk of potential child safeguarding issues in the local area, the application site has been compared to the location of other mental health facilities elsewhere.

The site on Ribston Avenue is location within a predominantly residential area, within approximately 70m of the boundary of St Nicholas Catholic Primary School. Residential development has been proposed on the land between the primary school and the hospital site.

The results of a desk-based assessment of other similar scale facilities operated by Cygnet has found a number of mental health hospitals located in areas with housing in close proximity. This suggests that mental health facilities should not necessarily present a risk in terms of child safeguarding in residential areas. The desk-based assessment also examined the proximity of the facilities to primary and secondary schools. There are various examples where schools (both primary and secondary) are located within 500m of mental health hospitals, although the assessment found none to be as close as that proposed at Ribston Avenue.

Although the proximity of the proposed facility to the school is a consideration, distance alone is not a determinant of potential safeguarding issues for children. Such facilities are monitored and inspected by the CQC to ensure they operate in a safe, secure and appropriate manner. CQC Inspection Reports published online have been analysed to consider the performance of other Cygnet mental health facilities. Although the assessment was not exhaustive, there were no clear examples found where child safeguarding issues were cited as a concern.

In consideration of all of the factors above, there is insufficient evidence to suggest that the County Council should object to the application in terms of the potential risk to child safeguarding.

I hope these comments are useful in determining the above application. If you have any questions please do not hesitate in contacting me.”

Beverley Dubash, safeguarding lead on behalf of Head of Education and Learning (DCC), responded as follows –

“I am the Safeguarding Lead for Education and have been asked to respond on behalf of the Head of Education and Learning. Having looked at the planning application, from an education/school safeguarding perspective I think there are two main issues:

1. Proposed hospital site security
2. Road safety

Schools are very aware of the need to ensure that the school site is secure in the sense of keeping unwanted adults out and the pupils in. St Nicholas Primary School should have in place a good level of site security but, from a school perspective it would be important that if the hospital were to have patients who could pose a risk to themselves or others, that there is sufficient staffing and all security measures are in place to prevent those patients being able to leave the hospital unaccompanied/unnoticed. Additionally, were there to be an incident that the school were notified immediately so that any additional measures could be put in place by the school to ensure the safety of children.

In terms of road safety, there would need to be appropriate measures in place to mitigate the impact of additional traffic created by this development to ensure that it does not increase the risk to children on the way to and from school.”

#### Devon Partnership NHS Trust

In addition to safeguarding matters the Devon Partnership NHS Trust was also consulted on the need for such a facility and characteristics of patients it might cater for. The Trust responded as follows:

“I write in response to your email to Dr Peter Aitken, dated 4 February 2019. I am not entirely clear why you would address an email concerning a planning application to Dr Aitken, who is our Director of Research and Development, but I would be grateful if you could ensure that all future correspondence in relation to Cygnet Healthcare’s application is sent through my office.

“I have a number of serious concerns about the way in which Exeter City Council has failed to consult our organisation on this matter and I have set these out in a separate letter to your Chief Executive, Karime Hassan.

Your email requests feedback relating to two distinct matters – ‘the need for such a facility and characteristics of patients it might cater for’ and ‘the potential impacts of the proposal from a safeguarding perspective’.

In terms of the need for additional inpatient capacity, we have made it clear publicly for some time that Devon is around 45-50 NHS-funded beds short when compared to recent benchmarking evidence from other parts of the country. We are happy to share this evidence. These are general acute psychiatric beds for adults - equivalent to 17 of the 54 beds proposed in Cygnet’s application. We have recently announced funding for a new NHS-funded ward in Torbay, which will go some way to addressing this shortfall, but there will still be a significant lack of capacity for this type of inpatient care. However, the council needs to be clear there is no commitment to fund the Cygnet beds by Devon CCG. Therefore, it is possible that these, bed would be used by people from outside Devon. The critical issue, when considering mental health inpatient capacity, is the nature of the need we

have to meet in Devon – it is not simply a question of needing more beds, but asking where the main gaps are in current provision and how we can best fill those gaps. Cygnet has not consulted with us in any meaningful way on this issue, despite our offer to do so, and we remain unconvinced that the mix of beds proposed in their application is the right one to meet the current gaps in capacity.

The nature of the mix of beds being proposed is directly linked to the issue of risk and, by extension, safeguarding. Some patient groups pose more of a risk than others and a large part of the everyday work of mental health providers involves the assessment and mitigation of risk in all of its forms. Clearly, any risk and safeguarding assessments relating to the proposed facility in Exeter would need to be carried out by Cygnet – and the facility's proximity to a school and residential areas would be an important part of their detailed assessment. It would be both unhelpful and inappropriate for us to make a general statement about any risk posed by the facility being proposed by Cygnet. However, I would say that facilities to support people with a variety of mental health needs are frequently built in residential areas and that we have many across Devon. While risk and safeguarding are clearly issues of the utmost importance, we have to balance them with the need not to stigmatise or alienate people with mental health needs – which is one in four of us.

On a more general point, but one of huge significance, we have concerns about the potential impact that a large new mental health inpatient facility would have on our ability to retain and recruit key staff to operate our own services. There are well-documented challenges right across the NHS to recruit and retain key staff and these apply equally to both physical and mental health services. Our own challenges apply to most staff groups, but particularly to doctors and qualified mental health nurses.

As previously offered to your Chief Executive, we would be happy to meet with officers and/or members of Exeter City Council to shed light on the challenges involved in delivering high quality services to local people, and also to raise the level of general awareness and understanding about broader issues in the field of mental health.”

#### Applicant's responses

Following the additional consultations undertaken, and further representations received in respect of the proposal, additional questions/matters of clarification have been put to the applicant in respect of matters arising from them. Those questions together with the applicant's responses are also set out below -

Question 1. Whether the proposed development is or would be compliant with the CCQI advice referred to in the Police Designing Out Crime Team further consultation response (19 February 2019). To the extent that it may not be so, please explain what you consider any consequences to be.

Response. “The proposal is in accordance with the CCQI Standards for Forensic Mental Health Services: Low and Medium Secure Care- Second Edition June 2017. It is noted that the Devon Police Architectural Liaison Officer in their consultation response dated 19th February 2019 referred to the matter of perimeter fencing which is set out by the CCQI as:

*“The secure perimeter is in line with the planning specification for the level of security offered, is protected against climbing, and is easily observable.  
Guidance: The secure external perimeter:*

- is formed by buildings;
- is formed by buildings connected with fencing (3m high for LSU);
- joins the reception and surrounds the remainder of the unit;
- surrounds the whole unit.

*Where fencing is used it must be weld mesh (3mm diameter and 13mm centres vertically and 75mm centres horizontally”*

The Landscape General Arrangement plan submitted with the application (Revision H) clearly shows that Jacksons Securi-mesh Fencing (3 metres high) is the fencing used to form the secure perimeter of the facility, which encloses the rear and sides of the building, and is completed by an airlock system at the entrance to the building. The unique topography of the building adjoining the service road bolsters the secure perimeter of the facility and locked gates will be in place to allow operational access. This building has been designed to completely adhere to the principles laid out in the CCQI guidance above.”

Question 2. Whether, likewise, the proposed development is or would be compliant with the CQC standards referred to in the further consultation responses on behalf of Devon Children and Families Partnership Executive & Devon County Council (13 & 25 February 2019 respectively). To the extent that it may not be so, please explain what you consider any consequences to be.

Response.

“As laid out in our submission dated March 2019, Safeguarding is a key priority for the operation of all mental health facilities in the UK. The Care Quality Commission (CQC) is the independent regulator of health and social care in the UK. In order to operate care providers must be registered with the CQC. The registration process enables the CQC to check that care providers can meet a number of legal requirements which include fundamental standards of quality and safety. The CQC monitors, inspects and regulates all services to make sure they continue to meet the fundamental standards of quality and safety and publish online all inspection reports and ratings. The CQC is the responsible regulatory body in this regard.

The fundamental standards are the standards set out by the CQC which facilities must never fail. Fundamental standards apply to the care and treatment provided in a mental health facility and set out the standards of care that everybody has the right to expect. Some key fundamental standards are:

- **Safety:** “You must not be given unsafe care or treatment or be put at risk of harm that could be avoided. Providers must assess the risks to your health and safety during any care or treatment and make sure their staff have the qualifications, competence, skills and experience to keep you safe”
- **Safeguarding from abuse:** “You must not suffer any form of abuse or improper treatment while receiving care”
- **Good governance:** “The provider of your care must have plans that ensure they can meet these standards. They must have effective governance and systems to check quality and safety of care. These must help the service improve and reduce any risks to your health, safety and welfare”.

All facilities are monitored against the fundamental principles of care. All facilities are also assessed by routine unannounced visits whereby they are rated against five key tests to ensure safe and effective facility operation. The tests set out below ensure that service users and the community are safeguarded by effective management:

- Is the service safe?
- Is the service effective?
- Is the service caring?
- Is the service responsive?
- Is the service well-led?

The performance of a facility is judged against the above tests, and a CQC rating is then provided based on the outcome. These ratings are critical indicators which help a hospital monitor its performance and ensure that they are safe and operating effectively. The CQC as the acting regulatory body regularize the standard of care given throughout the UK, and the proposed hospital in Exeter will be no different. The CQC ensures that both patients and the community are both safeguarded and protected from risk.”

Question 3. Please confirm the source of the acceptance criteria and/or definitions of those requiring Low Secure Mental Health services referred to in the responses of Mrs Folland, the Headmistress of St Nicholas Catholic Primary School (25 February 2019), Ms Angela Turner (20 February 2019), and Mr Ryan Goldsmith (18 January 2019). Please also explain the significance of these for the classification of the proposed development within Class C2.

Response.

“The NHS definitions for mental health services do not relate to The Town and Country Planning Use Classes Order 1987 (as amended). The key test in this case is the definition of Use Class C2 and the definition of Use Class C2A. These definitions have been defined in the Courts as we have provided previously. In this case, the site will operate within Use Class C2.”

Question 4. Please identify, if possible, the ‘report from the National Health Development Unit’ referred to in the letter from Hill Barton Community Association (20 February 2019 under date 21/02/19 on Council’s website) and explain its significance for the proposed development’s classification.

Response.

“The above-mentioned ‘quote’ is from a report published by the Centre for Mental Health titled ‘Pathways to unlocking secure mental health care’, published in *April 2011*. The report is now 8 years old. This application is for a low secure facility. Chapter 1, ‘The Review’, states;

*“This review had four key objectives.*

- 1. To examine the role of medium secure and related services for offenders with severe mental health problems.*
- 2. To examine the costs and benefits of these services and whether these resources could be better used.*
- 3. To examine how the flow between prison and medium secure services could be improved.*
- 4. To examine possibilities in improving the flow between high, medium and low secure services and the ways in which discharge planning and aftercare could be improved.”*

The report focuses on the role of *medium secure* facilities for 'offenders' with severe mental health problems. The development is for a low secure facility and as such, the above document is not referable as it relates solely to medium secure facilities."

Question 5. Please explain, if not covered above, the significance of the following for the proposal's Use Class classification: (a) detention under the Mental Health Act; (b) reference to 'restriction on legal grounds' at 'Defining mental health services' (NHS Confederation) p.11; and (c) reference to 'locking' of the Rehabilitation Ward in the Operational Statement. Please also explain (d) the land use classification of the PCIU Unit and Mother & Baby unit at Wonford.

Response.

"The above matters specifically deal with the matter of security within facilities and this is considered below. It is worth setting out here the definitions of both C2 accommodation and C2A accommodation, so that they can be considered and contrasted.

The town and country planning (Use Classes) Order 1987 defines class C2 accommodation as follows:

"Use for the provision of residential accommodation and care to people in need of care. ... use as a hospital or nursing home. Use as a residential school, college or training centre."

By contrast, C2A accommodation is defined as follows:

"Use for the provision of secure residential accommodation, including use as a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure a local authority accommodation, or use as a military barracks."

The key distinction between the two is that in the former the accommodation is used for the provision of care to people in need of care; in the latter the principal function of the accommodation is to confine those who are living within it.

The proposed Cygnet Hospital is not designed primarily with security in mind. That is because it does not need to be. Cygnet treats people who are in need of care, not imprisonment.

This is not a grey or unclear area of planning law. It has already been tested and the High Court has issued a very clear judgement on the subject. The case was *R (on the application of Tendring DC) vs Secretary of State for Communities and Local Government*, reported at 350 [2009] JPL.

The facts were simple. Planning permission was given for the change of use of a detached building to a C2 care home. The operator ran the home to provide treatment for people who could not leave except with the assistance and supervision of the staff. The security arrangements included CCTV and a 2 metre security fence.

An application was made to the court alleging that the use did not fall within the C2 Use Class but was a C2A Use.

The judge ruled that the planning inspector who's decision was being challenged "was perfectly entitled to say in paragraph 13:

"however, it seems to me that the main purpose of these [C2A] categories is to keep persons under control who are potential danger to society at large."

Plainly he was not referring to the military barracks element of class, but rather to institutions such as prisons, young offenders' institutions, et cetera.

The Inspector considered this matter in considerable detail and concluded that care was the units primary function and that security, although strict, was in place more for the safety of the residents to prevent them from harming themselves rather than their being a danger to society beyond the boundaries of the site.”

Unsurprisingly, he found that the use was a C2 care home and not a C2A use.

That decision is 10 years old. It has never been challenged or questioned. It is also worth noting that there is no freedom of movement between Use Class C2/C2A.

The provision of sensible security for the benefit of residents in a care home or hospital does not change the use of that care home or hospital to a C2A use.

Whilst we are not familiar with the Wonford PICU ward in great detail, it would appear that this is a ward to extend the existing facilities at Wonford House Hospital and as such, appears to fall within Use Class C2. We have reviewed the Officer’s Report and Decision Notice in relation to that application and note that neither report considered the Use Classes Order. The PICU unit is designed to provide care to those in need of care and not to detain people in line with the Case Law that has been established in the Courts for the definition of Use Class C2.”

Question 6. Please set out your comments on/responses to the following: (a) the footpath/cycleway to which Mrs Folland refers (25 February 2019); (b) the fencing suggestion made on behalf of Devon County Council (25 February 2019); and (c) the screening referred to by Devon Children and Families Partnership Executive (13 February 2019).

Responses in quotes and italics:

a) footpath/cycleway: *“Should the Council be minded to open a public footpath with connectivity to the open space we are providing on site we would be happy to support this provision.”*

b) fencing suggestion: *“The proposal incorporates security in the design, for example the use of courtyards; however, for completeness we have incorporated fencing as requested by the Police.”*

c) screening: *“Service users will benefit from internal courtyards on site which will provide their amenity space. The external space is landscaped for visual amenity, it will enhance the street scene and will not be used by service users.”*

Note. The Council is not minded to secure or provide for the opening of a public footpath as described at (a) above.

Question 7. Please set out your response to the request of the Senior Environmental Health Officer for further information, concerning noise impact (5 February 2019).

Response.

“The development will be designed to achieve the acoustic design guidance contained within Health Technical Memorandum (HTM) 08-01: Acoustics, which gives comprehensive advice and guidance of the design, installation and operation of specialised building and engineering technology used in the delivery of healthcare. A review of this matter with Cygnet confirmed that these are the relevant standards adhered to for internal and external levels which are actively achieved and adhered to across all Cygnet facilities. For completeness, please see the table below which sets out the standards that the facility has been designed to and will adhere to during operation:

**Table 1 Criteria for noise intrusion from external sources**

Room type	Example	Criteria for noise intrusion to be met inside the spaces from external sources (dB)
Ward – single person	Single-bed ward, single-bed recovery areas and on-call room, relatives' overnight stay	40 $L_{Aeq, 1hr}$ daytime 35 $L_{Aeq, 1hr}$ night 45 $L_{Amax, f}$ night
Ward – multi-bed	Multi-bed wards, recovery areas	45 $L_{Aeq, 1hr}$ daytime 35 $L_{Aeq, 1hr}$ night 45 $L_{Amax, f}$ night
Small office-type spaces	Private offices, small treatment rooms, interview rooms, consulting rooms	40 $L_{Aeq, 1hr}$
Open clinical areas	A&E	45 $L_{Aeq, 1hr}$
Circulation spaces	Corridors, hospital street, atria	55 $L_{Aeq, 1hr}$
Public areas	Dining areas, waiting areas, playrooms	50 $L_{Aeq, 1hr}$
Personal hygiene (en-suite)	Toilets, showers	45 $L_{Aeq, 1hr}$
Personal hygiene (public and staff)	Toilets, showers	55 $L_{Aeq, 1hr}$
Small food-preparation areas	Ward kitchens	50 $L_{Aeq, 1hr}$
Large food-preparation areas	Main kitchens	55 $L_{Aeq, 1hr}$
Large meeting rooms (>35 m <sup>2</sup> floor area)	Lecture theatres, meeting rooms, board rooms, seminar rooms, classrooms	35 $L_{Aeq, 1hr}$
Small meeting rooms (≤35 m <sup>2</sup> floor area)	Meeting rooms, seminar rooms, classrooms, board rooms	40 $L_{Aeq, 1hr}$
Operating theatres	Operating theatres	40 $L_{Aeq, 1hr}$ 50 $L_{Amax, f}$
Laboratories	Laboratories	45 $L_{Aeq, 1hr}$

” --

## **RELEVANT PLANNING POLICIES/POLICY GUIDANCE**

### **Central Government Guidance**

National Planning Policy Framework February 2019 (NPPF):- specifically

2. Achieving sustainable development
4. Decision Making
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

The Council's Development Plan comprises the Core Strategy, saved policies of the Exeter Local Plan First Review referred to below, the Exeter St James Neighbourhood Plan (which is not relevant to the current application as the application site does not fall within the Exeter St James Neighbourhood Plan area) and Devon Waste Plan.

### **Exeter Local Development Framework Core Strategy 2012**

Objectives 1-10

CP1 – Spatial approach

CP9 – Strategic transport measures to accommodate development

CP10 – Meeting Community Needs

CP11 – Pollution and air quality  
CP12 – Flood risk  
CP14 – Renewable and low carbon energy  
CP15 – Sustainable design and construction  
CP16 – Strategic green infrastructure  
CP17 – Design and local distinctiveness  
CP18 – Infrastructure requirements and developer contributions

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

AP1 – Design and location of development  
AP2 – Sequential approach  
T1 – Hierarchy of modes of transport  
T2 – Accessibility criteria  
T3 – Encouraging use of sustainable modes of transport  
T10 – Car parking standards  
C5 – Archaeology  
EN2 – Contaminated land  
EN3 – Air and water quality  
EN4 – Flood risk  
EN5 – Noise  
DG1 – Objectives of urban design  
DG2 – Energy conservation  
DG4 – Residential layout and amenity  
DG5 – Provision of open space and children’s play areas  
DG7 – Crime prevention and safety

### **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.

DD1 - Sustainable Development  
DD13 - Residential Amenity  
DD20 - Sustainable Movement  
DD21 – Parking  
DD25 - Design Principles  
DD26 - Designing Out Crime  
DD30 - Green Infrastructure  
DD31 - Biodiversity  
DD34 - Pollution

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

Archaeology and Development SPG 2004  
Planning Obligations SPD 2009  
Sustainable Transport SPD 2013  
Trees and Development SPD 2009

### **OBSERVATIONS**

Background

The development comprises a 54 bed independent hospital to meet a need identified by the applicant/operator following discussions with the Devon Partnership NHS Trust. The proposed hospital would have 3 services as a dedicated inpatient service:-

- 17 beds for men with acute mental health needs
- 21 beds for men who require a period of longer term mental health rehabilitation
- 16 beds for women who require a low secure environment for treatment of an emotionally unstable personality disorder

The submitted documents state this will meet an unmet need locally for patients who currently have to access such services outside of Devon and the South West.

The main material planning considerations relevant to the assessment of this proposal are considered under the following headings below –

- (i) Nature of proposed use including use class and need
- (ii) Safeguarding
- (iii) Public perception of fear including impact on St Nicholas School
- (iv) Layout/design/physical relation of building to surroundings
- (v) Residential amenity impact
- (vi) Noise
- (vii) Highway/Transportation matters
- (viii) Drainage/Ecology
- (ix) Landscaping/open space
- (x) Public Sector Equality Duty
- (xi) Planning obligations (Section 106)

(i) Nature of proposed use including use class and need

During the processing of the application the exact nature of the facility proposed has been clarified as an independent hospital for the provision of care to people in need of care, particularly in respect of mental health related matters and treatment.

The applicant's agent has confirmed that the full range of mental health facilities is as follows –

- Acute
- Low secure
- Medium secure, and
- High secure (being the highest security level)

It has been confirmed that the facility the subject of this application will be for the provision of care and treatment to patients falling within the 'Acute to Low Secure' range only. The applicant's agent has been clear that the submission for which planning permission is sought is for a hospital falling within Class C2 of the Use Classes Order. The principal feature of residential uses within Class C2 is the provision of 'care'. This means personal care for people in need of such care by reasons of (inter alia) past or present mental disorder (Article 2 of the Use Classes Order). The *Tendring DC* case (referred to above) confirms that the main purpose of a use within Class C2 is to provide care, and that security, though it may be strict, is in place more for the safety of residents (to prevent them from harming themselves) than to mitigate the risk of danger to society beyond the boundaries of the site.

In the context of this proposal the reference to security refers to the fact that all the outside doors of the building are access-controlled with staff managing them so that no-one is able to enter or leave the building without their knowledge. It has also been confirmed that all patients of the facility would be risk assessed by a multi-disciplinary team before they are

allowed leave to the community, i.e. to leave the building, and that often such leave will be accompanied by a care worker or family member.

Given the profile and needs of the intended patients the 'security' nature of the proposed facility is necessary to ensure the safety of the patients as people vulnerable to exploitation by others, and to prevent them from harming themselves, rather than there being a danger to society generally from these patients.

The difference between 'security' in this context (Class C2) and that in respect of secure residential institutions falling within Class C2a - including secure hospitals alongside uses such as prisons, detention centres and custody centres which might be considered less appropriate in a residential area - has previously been recognised by the Courts. The difference being that in respect of a C2a use their main purpose is to keep persons under control who are a potential danger to society at large (with the exception of barracks) as opposed to residential institutions whose primary function is the provision of care to people in need of care, albeit they may incorporate ancillary security measures as part of the delivery of that care.

In planning terms whether a particular use or activity falls within any use class is to be determined by reference to its primary purpose. Documents submitted in support of the application, such as the Design and Access Statement, Planning Statement and Cygnet statement, set out how the needs of the occupants of the building (patients) will be met through the design of the building, and expand on the nature of the proposed facility in terms of target patients.

In further support of their position that the proposal constitutes a Class C2 use the applicant's agent has stated in supplementary information that –

“The proposed Cygnet Hospital is not a prison or otherwise designed principally as a means of confinement. It is a hospital where people who are unwell can be treated. Since some of those people will be confused or distressed, it is prudent to plan for this and you have areas where they can be kept secure for their own safety. This is a very different proposition to a “secure hospital” where the principal purpose of the hospital, as the name implies, is security.  
The proposed Cygnet Hospital is not designed primarily with security in mind. That is because it does not need to be. Cygnet treats people who are in need of care, not imprisonment. In this connection, the objectors concerns about fencing can be seen to be misplaced. The minority of residents who need to be confined for their own safety will not have access to the grounds.”

Reference is also made to previous case law relevant to reaching a conclusion on the relevant use class, namely the *Tendring DC* case (referred to above), in support of the classification of the current proposal as a C2 use rather than a C2(a) use. Important to the conclusion of that case was the primary function of the use and the concept of 'care' imported into Class C2 as opposed to Class C2(a). It is not of direct assistance, on the other hand, to compare the proposed development with the nursing home considered in the *Tendring DC* case as a matter of fact.

There has been significant public objection to the acceptance of the proposed facility as a Class C2 use, based on reference to various NHS guidance documents and definitions of 'low secure' facilities. The applicant has been invited to respond to the points raised in so far as they are relevant to determination of the relevant use class of the proposed development for planning purposes. Objectors have also questioned the relevance of the *Tendring DC* case to this proposal. Having sought legal advice the Council is satisfied that this remains the leading authority in this context.

Notwithstanding the above many objections have suggested that in the event of the proposal being approved the Council should impose a condition preventing the facility from becoming used for purposes with Use Class C2(a) without a further permission for such a use being applied for and obtained. The consultation response from the Devon Children and Families Partnership has also expressed a view that it should be made clear that a separate application would be required should the facility wish to extend its brief and become used for purposes within Class C2(a). Change from a use within Class C2 to another within Class C2(a) would constitute or involve a material change of use and require planning permission. There is no 'permitted' change of use between Use Classes C2 and C2 (a) without the benefit of an express planning permission, and there is consequently no need for a specific condition limiting such change without future consent being obtained. Imposition of such a condition would not meet the 'necessity' test set out in para 55 of the NPPF in relation to the imposition of conditions.

In conclusion, returning to the primary purpose of the proposal for which consent is sought, this is clearly considered to be the provision of care to people in need of such care.

There are many uses that have an element of security measures related to their function which does not make them secure institutions falling within Use Class C2a. For example schools have secure perimeters and receptions with sign in and out procedures, and elderly persons' care homes often have both controlled access and egress in place for the safety of residents from outside influences and in terms of ensuring vulnerable residents, for example those with dementia, are not able to leave premises without the knowledge of those responsible for them. In neither of these cases would it be advocated that such security measures would make those uses secure institutions in terms of their use class designation. In such cases the security in place is ancillary to the primary function/purpose of the building.

It is considered that there is a distinction between premises caring for patients in a secure setting (including those detained or in custody for the time being within the criminal justice system) and security/detention premises where the primary purpose is the physical detention of people.

Consequently it is considered that in planning terms the proposal would be a Residential Institution falling within Use Class C2 rather than a 'Secure Residential Institution' within Use Class C2a. As such it is considered appropriate for the residential institution proposed in this application to be located within the residential context of the application site.

Turning to the issue of need for the development, there appears to be a general consensus - including among the majority of objectors - that there is a recognised need for the provision of additional facilities for the treatment of those with mental health-related illness. The consultation response from the Devon Partnership NHS Trust acknowledges that Devon is around 45-50 beds short of inpatient capacity when compared to recent benchmarking evidence from other parts of the Country. It further acknowledges that 17 of the 54 beds proposed in this facility could contribute to meeting that general need for acute psychiatric beds but questions the contribution of the remaining mix of beds proposed to meeting the prevailing need. Other consultation responses, including those from Devon County Council and the Chief Nursing officer of the Devon and South Devon CCG also refer to the need for additional mental health treatment/facilities. Therefore in terms of meeting community need for mental health facilities, the proposal is considered to be consistent with Policy CP10 of the Council's adopted Core Strategy.

## (ii) Safeguarding

Section 11(2) of the Children Act 2004 states that: "Each person and body to whom this section applies must make arrangements for ensuring that – (a) Their functions are discharged having regard to the need to safeguard and promote the welfare of children: ...".

References to "safeguard" and "safeguarding" throughout this report are to the need to both safeguard and promote children's welfare.

This duty applies in the context of the Council's discharge, as here, of its planning functions, and the issue of safeguarding and promotion of children's welfare has been identified as one of the main material considerations in respect of this application. It is a primary consideration here - and one which members will need to keep at the forefront of their decision-making - bearing in mind both the nature and circumstances of the proposed development and that the requirement to have regard to these matters derives from statute. That is not, on the other hand, to say that this is a consideration that need be determinative. Acknowledging that the previous report for the 3<sup>rd</sup> December Planning Committee failed to advise Members appropriately in this respect, extensive further consultation, as set out earlier in this report, was undertaken specifically with regard to this matter.

In respect of safeguarding issues arising from the proposal, the Local Children's Safeguarding Board (Devon Children and Families Partnership) have responded stating that "the provider of the facility is expected to have appropriate safeguarding measures in place and to conform to CQC (Care Quality Commission) standards, and, thereby, safeguarding risks should be appropriately mitigated". It goes on to state that "it is the provider's responsibility to ensure risk mitigation and appropriate governance of risk to both patients and the public, through the design and management of the provision." Overall they do not object to the application and note the proposed development would provide "a much welcome enhancement of existing mental health provision in Devon."

The local NHS Clinical Commissioning Group were also consulted from a safeguarding perspective and likewise refer to the need for the provider to "institute clear, robust risk management processes to ensure there is the least risk to the public as possible given the broad spectrum of patients likely to access the service". They also state "Modern design, clinical staffing and policy safeguards should provide a level of assurance to the local population of the safety of the proposal regardless of the proximity to the population of Exeter, including local amenities."

Responses on behalf of DCC from a safeguarding perspective also raise no objection in relation to the proposal. In responding they also state that they have "made the necessary assumption that the hospital will be run in compliance with the national guidelines in relation to this type of provision. Such guidelines will ensure that the safety of patients and the local community, including children attending the nearby school, are safeguarded appropriately. In this context, the LEA has no evidence to suggest that there should be specific concerns in relation to this proposal and therefore does not object to this application." They also note the existence of a number of other similar scale mental health hospitals operated by Cygnet located with housing in close proximity, and schools within 500m (albeit not quite as close as in this case). The existence of comparable facilities to other residential areas suggests that mental health facilities should not necessarily present a risk in terms of child safeguarding in residential areas. Promotion of the adjoining site for residential development alongside the current proposal re-affirms this view. The proximity of the proposal to a school is clearly a consideration here although, as DCC point out in their consultation response, "distance alone is not a determinant of potential safeguarding issues for children. Such facilities are monitored and inspected by the CQC to ensure they operate in a safe, secure and appropriate manner."

The Safeguarding Lead for the Diocese (Robert Brown), and the Head Teacher of St Nicholas Catholic Primary School, have raised safeguarding concerns and objections respectively in their consultation responses. In the context of her consultation response the Head Teacher has referenced safeguarding in respect of “the issues of risk, child protection and the welfare of my pupils and, in addition, the staff and wider school community.” The safeguarding risks highlighted in these two consultation responses emphasise the following –

- The nature of patients to be treated at the facility and the consequent risk they pose to others i.e. their ‘risk profile’;
- The risk of their ‘escape’ from the facility, and related ability of operator to effectively manage this risk;
- The future change in nature of facility to a higher risk facility i.e. to a Use Class C2(a) use; and
- The potential opening up of a foot/cycle path leading from Warwick Road to Ribston Avenue in close proximity to school play areas, creating potential for contact between patients and children attending the school.

In light of all the consultation responses received from relevant safeguarding bodies it is considered, so far as the first two matters are concerned, that the on-site measures in respect of fencing/boundary treatments, the operational controls/management practices of the operator, the design of the building to the required standards of the appropriate regulatory body, and the inspection regime of the CQC are, in combination, sufficient to minimise and render acceptable any potential safeguarding risks associated with the proposed facility for the purpose of reaching a conclusion on the planning merits of the proposal from a safeguarding perspective.

In terms of future changes to the nature of the facility and any associated increased safeguarding risks (the third matter) it has already been clarified that any subsequent change of use to a facility falling within Use Class C2(a) would require a separate planning permission. Any such proposal would fall to be considered on its own individual merits in all material respects, including from a safeguarding perspective, should any application seeking such permission be made in the future. Appropriateness for use within Class C2(a) is not therefore relevant to the determination of the current proposal..

A particular safeguarding concern has been highlighted in respect of the facility where it adjoins the school's rear exit (the fourth matter above), and referred to in bullet point of the consultation response from the Devon Children and Families Partnership. In respect of the latter this reflects a misunderstanding as to the proximity of the proposal to the school. There is intervening land between the proposed hospital site and the school and there is no direct link proposed from the hospital grounds to the path leading to the rear exit of the school. The intervening land is the subject of a proposal for housing development (48 dwellings) that has recently been allowed on appeal by the Planning Inspectorate. Whilst this housing proposal itself includes roads and footpaths which could ultimately provide a pedestrian/cycle route from Warwick Road to Ribston Avenue (which in part could adjoin the school's rear exit/boundary), this will not exist unless/until that housing development is implemented and will not provide a direct connection from the hospital grounds onto the school's rear exit path.

Comments relating to the need for additional boundary treatments/security measures to the nearby school site, and suggestions that the applicant should fund such measures, need to be considered in the following context. As outlined above the proposal is considered acceptable from a safeguarding perspective based upon (a) appropriate boundary treatments on the application site itself, (b) the nature of the proposed facility/use, (c) design

standards and the regulatory regime of the CQC, and (d) the responses from consultees on the issue of safeguarding. In such circumstances additional security measures specifically on the school site are not considered directly necessary to make the proposed development acceptable, and therefore it would not be reasonable to require the applicant to fund such measures.

Aside from those children attending the School, children will also be resident within the area surrounding the application site and the proposed development will or has the potential to engage ECHR Art. 8 (European Convention on Human Rights) rights to family and private life so far as they are concerned. Children's best interests, like their parents and other adults, require that their surrounds should be safe and secure. It is not, however, considered that the proposal would be inconsistent with those children's or others' best interests or rights under Art. 8 having regard to the matters at (a), (b), (c) and (d) above.

Although the focus of the safeguarding consultations and responses has been in relation to children, safeguarding concerns are considered to arise also in relation to the rest of the population more generally including the elderly and that the operator's safeguarding measures and risk management practices, together with the regulatory process of the CQC, should also appropriately mitigate safeguarding risks to them. In terms of assessing the safeguarding risks from a planning perspective it is considered that the regulatory processes of other relevant bodies and risk management processes of the operator themselves will, together with the design of the building itself and associated boundary treatments, in combination ensure that safeguarding risks associated with the facility and its operation are minimised such that there would be no sustainable grounds in relation to the matter of safeguarding to withhold planning consent for the proposal. It is worth noting that a revised landscaping and boundary treatment plan has been received from the applicant increasing the height of the proposed boundaries around the hospital to 3 metre high Jackson securi-mesh fencing (proposed condition 15 secures control over boundary treatment including its height).

Overall, based on the consultation responses received it is not considered that there are substantiated grounds in relation to the need to safeguard and promote the welfare of children (and others) on the basis of which, whether considered alone or in combination with other factors, to refuse planning permission for the development proposed.

### (iii) Public perception of fear

It is clear from the representations received that there is a public perception of fear concerning the nature of this proposal in terms of its potential impact on residential amenity and the safety and well-being of surrounding residents, including children attending the nearby Primary School, arising from the perceived risk or prospect of anti-social or criminal behaviour associated with patients of the facility. Based on case law the risk and perception or fear of anti-social/criminal behaviour arising from the proposed use is capable of being a material consideration in the assessment of the acceptability of planning proposals. However, in order to carry 'weight' in the determination of the application such 'fears' must be based on sound reasons, and should be supported by a reasonable evidential basis for those 'fears'. Case law has established that unfounded fear in itself would rarely (if ever) be a reason to justify the withholding of planning permission.

Therefore it is important to consider the evidence when attributing weight to the fears raised in objections submitted in respect of this application as a material planning consideration. Although some of the representations have referred to adverse Care Quality Commission and press reports relating to standards/issues at other similar facilities (including some run by the same applicant – Cygnet) these relate to patient treatment and accommodation standards rather than matters relating to incidents of anti-social or criminal behaviour in

areas around other hospitals associated with patients of them. Objectors' concerns and anxiety about the proposed use are acknowledged. However there has been no solid evidence to demonstrate that the proposal would result in an increase in antisocial or criminal behaviour as a direct result of the proposed hospital and its use as such. It is noted that the applicant runs many other similar facilities throughout the country that are also located within residential areas and in close proximity to educational establishments without apparent significant adverse impacts. Similar facilities are also operated by other providers in similar locations.

The applicant has clarified that security measures will ensure that no-one can enter or leave the building without the staff managing that, and in addition all patients will be risk assessed by a multi-disciplinary team before they are allowed leave to the community. Furthermore, the comments in the consultation response from the Police were raised with the applicant. Revised fencing details have subsequently been provided increasing the height of fencing to the secure perimeter of the hospital grounds to 3 metres and confirming it will comprise a secure mesh style fence. It is considered that in the light of these measures, together with the operational safeguards of the operator and the regulatory regime of the CQC, the public perception of fear associated with the proposed development is not well-founded.

Therefore, based on the nature of the proposed use, security measures/practices that will be implemented by the operator, other comparable facilities in the country it is not considered that the proposal would significantly affect residential amenity in the locality, nor give rise to unacceptable impacts in respect of anti-social or criminal behaviour. In light of this, and the recognised need for this type of facility locally, it is concluded that little weight can be afforded to the perception of fear raised in representation, and that this would not constitute a justifiable reason to refuse permission for the development.

A recent planning appeal decision in Wales (November 2018) in respect of a hybrid application for full planning permission for a 54 bed low secure mental health unit and outline for housing addressed similar issues to those raised in this application. The application was refused contrary to officer advice. In allowing the appeal the Inspector commented as follows:

*"10. Although not clearly expressed in the reason for refusal, Members' concerns appear to have included the level of security of the Low Secure Unit and its compatibility with neighbouring residential areas and schools. As explained in the Council's committee report, the hospital unit would be designed and operated to prevent escape and to provide accommodation that is secure in terms of the health and well-being of its patients. Such units are for the treatment of low risk patients who do not need the level of physical security provided by Medium or High Secure Units.*

*11. There is a need for units of this sort in North Wales, and the proposal is supported by UDP Policy H11, which covers the provision of residential care homes, nursing homes and specialist health care services. In view of the secure nature of the unit and the low risk of its patients, I do not consider the proposed use would significantly affect the neighbouring land uses."*

Costs were also sought by the applicant, and in his letter relating to the costs application the Inspector commented as follows –

*"8. As to concerns about the use, I have taken that to refer to perceptions of risk associated with the low secure hospital unit, which I have concluded would not significantly affect the neighbouring land uses. However, no explanation of these perceptions has been provided, and no justification has been produced for this element of the refusal."*

On this basis the Inspector concluded that the Council had ‘failed hopelessly’ and ordered it to pay full costs to the applicant.

The Head Teacher has raised the issue of the impact of the approval of this proposal upon the future viability of the school. The impact, if any, of the proposed development on the choice of school places is recognised to be a material consideration in its own right, and considered here because of its relationship to ‘Perception of fear’.

Concern for the viability of the School is based on a statement by the Head Teacher that she is aware of parents who have not applied for school places at St Nicholas as a direct consequence of this proposal. She explains that if numbers continue at this low level or fall further as a result of this facility being located next to the school, its budget will be significantly affected. The potential consequences in terms of future choice of school places should the school become unviable is cited in the context of Paragraph 94 of the NPPF, relating to the importance of a sufficient choice of school places being available to meet the needs of existing and new communities.

It has already been concluded, however, that the proposal is considered acceptable from a safeguarding perspective, and that the design of the facility and the regulatory regime to which it would be subject should provide appropriate assurance to the public in terms of safety, and ameliorate fear associated with the facility. In this context it is not considered that the consequence of granting permission for this hospital should be seen as having a significant and direct impact on the contribution that the school makes to the choice of school places and viability of the School, such as would warrant or contribute to a decision to refuse planning consent for the proposal.

#### (iv) Layout/design/physical relationship of building to surroundings

Levels across the site fall from the highest point to the north down to the lowest point on the southern boundary. The western boundary of the site adjoining properties in Warwick Road comprises an existing mature tree belt.

The proposed layout of the site has been having regard to the level changes utilising the relatively level northern part of the site as open space and cutting the hospital building into the existing ground to create a level change with retaining wall and boundary fence separating the private space (hospital and its immediate grounds) from the public open space. Ground levels on the southern part of the site have been raised slightly to create a level site for the hospital building. The proposed layout provides for active frontage to Ribston Avenue with the entrance of the hospital building on this elevation. The vehicular access to the site is proposed from Ribston Avenue with the main parking area situated between the building and the road. A service road leads from this public parking area around the north of the building giving access to additional parking and servicing area to the rear of the building. This service road incorporates gates to enable access to this part of the hospital site to be controlled.

The building design incorporates 4 landscaped external courtyard gardens contained within the building envelope that will only be accessible internally from within the building. These spaces will provide safe outdoor amenity space for both patients and staff.

The hospital building itself is single storey in height on the northern part and 2 storey for the remainder giving it a domestic scale appropriate to the residential character of the surrounding area. The design incorporates separate pitched roof elements to the NE, NW and SE elevations which screen flat roof elements behind from public view. The existing trees along the western boundary are to be retained and will provide some screening of the building from the view of properties on Warwick Road.

External materials are predominantly brick with limited sections of render, aluminium windows/doors work and a grey zinc roof/cladding. Boundary treatments will comprise 3m high secure mesh style fencing to the perimeter of the hospital building itself, and between the front of the hospital building and the road. Whilst the patient external areas comprise courtyards contained by the fabric of the building the height of this fencing around the immediate perimeter of the hospital has been increased in line with the Police Architectural Liaison Officer comments and relevant design standards.

The open space beyond the immediate hospital grounds, i.e. between the 3m high hospital fencing and the public highway will have a lower post and wire fence to the public highway boundary.

It is considered that the design and massing of the building is appropriate to the context of the site and its relationship to surrounding properties, and that the use will not have a substantial adverse impact on the amenities of surrounding properties (including existing properties and those recently permitted on appeal). The potential housing development was known about at the time the hospital scheme was evolving and the inter-relationship between the two sites was considered as part of the design process. Overall the proposal is considered consistent with the relevant design policies forming part of the Development Plan.

#### (v) Residential amenity impact

Physically the relationship of the proposed building to neighbouring/surrounding properties and the impact of the use upon residential amenity of surrounding properties has been considered under section (iv) above.

The issue of the acceptability of the residential environment for patients within the facility itself has been raised in some of the objections. This matter was raised with the applicant's agent who has confirmed that the proposal has been designed to meet relevant standards for provision of a satisfactory environment for the patients in terms of protection from noise intrusion from external sources (see response to Question 7). On this basis it is considered that the proposed residential environment for future occupants of the facility would be appropriate

#### (vi) Noise

In response to comments about potential noise impacts arising from the development from the Council's Environmental Health Officer an Acoustic report has been submitted establishing prevailing ambient noise levels to facilitate assessment of the potential impact of the building. The submitted information has identified maximum plant noise levels for each boundary to ensure that there is no significant adverse impact on the residential amenities of surrounding properties associated with the development. These levels have been agreed with the Council's Environmental Health Officer and will be secured through an appropriate condition attached to any approval. See also discussion of the Environmental Health Officer's response to further consultation set out above.

#### (vii) Highway/Transportation matters

The application site is located approximately 2.7 miles from the centre of Exeter and is served by an existing bus route that has a bus stop directly outside the site. The scheme provides a total of 49 parking spaces to serve the development, along with the provision of cycle parking in front of the building. The application is accompanied by a Transport Statement and an Air Quality Assessment.

As highlighted earlier in this report the Highway Authority (DCC) have raised no objection to the proposal on the grounds of its potential highway/transportation impacts in their formal consultation response. In terms of traffic generation/impact on the highway network they commented as follows –

*“A transport assessment has been submitted with the application. Predictions of the likely traffic generated by the development have been derived via a count at a similar site – it was considered that TRIC’s was not suitable due to the lack of sites within the database (this method is what you would expect with a typical application). This is considered a reasonable approach and in addition to this, the applicant has added a factor for robustness. The resultant analysis shows that the proposed development (on a weekday) is likely to generate 26 two-way trips during the AM peak period with 14 in the PM peak period. Trips generated on a weekend have also been shown to have a low impact on the highway.*

*The analysis also shows that users/visitors of the hospital have more flexibility in travel times and therefore an opportunity to avoid the travelling through busy parts of the network at the most congested times. Given its location with proximity of bus stops (immediately next to the site and on the Honiton Road corridor), the proposals are unlikely to have a significant effect on the highway network and does not form a reason for refusal.”*

In terms of the proposed access arrangements to serve the development the Highway Authority commented as follows –

*“Vehicular access is proposed via a dropped kerb onto a stub end of Ribston Avenue. This meets sufficient visibility requirements (2.4m x 25m for 20mph) and is acceptable in principle.*

*To accompany the new vehicular access, footways on either side of the access road are provided. Maintaining the safety and attractiveness of this junction is essential and to mitigate this, the applicant has proposed tactile crossing, as indicated on “Drawing Number CYG-PHS-XX-ZZ-DR-A-90-004 Rev P5”. Such an access should have a tight radius and tactile to provide appropriate facilities for pedestrian/cyclists. Tracking diagrams have been produced, proving that a refuse lorry can negotiate the proposed access point. More detail will be required at S278 stage.*

*The applicant also wishes to accommodate a secondary emergency access point – this will be located just south of the bus stop. The applicant may wish to explore the option of double yellow lines to protect this access and therefore a monetary sum of £3k is required for Traffic Regulation Order purposes; this should be secured via a suitable agreement.*

*A secondary pedestrian access point onto Ribston Avenue is proposed together with a private, informal zebra crossing point and is welcomed. South of the vehicular access point is a footway that is proposed to be built to the southern boundary – this connection is conditioned appropriately as it may be subject to change (dependant on the access arrangements of the residential application immediately adjacent (Planning ref: 18/0534/FUL)). A link will provide suitable access arrangements, allowing pedestrians/cyclists to walk/cycle through to Ringswell Avenue/Warwick Road and eventually to Honiton Road. Such a link will enhance pedestrian/cycling permeability and is necessary to promote sustainability of the site.*

*The applicant is reminded that the access point/footway to the south is to be constructed partly on adopted highway, but also on private land (owned by DCC). The applicant should approach DCC for this area to be brought up to an adoptable standard through a S38 agreement.*

*The applicant is advised that parts of the indicated area are HMPE and therefore permission must be obtained prior to undertaking any work on the highway. A Section 38/278 licence will need to be applied for alongside a Road Safety Audit. The applicant has indicated that the proposed road serving the site will remain private.”*

The Highway Authority have also confirmed that the level of parking proposed is considered acceptable to serve the premises having regard to comparison with similar sites/schemes elsewhere in the country. Advice in the Council's Sustainable Transport SPD suggests a parking ratio of 1 space/4 staff and 1 space/3 visitors for hospitals. Based on predicted staffing levels set out in the submitted documents it is considered that the level of parking proposed is consistent with the Council's suggested standard. The site is located on the route of an existing bus service that links to the city centre, and provides cycle parking facilities on site, together with an operational level of car parking that is considered acceptable by the Highway Authority. Thereby the proposal is considered to consistent with relevant transportation policies forming part of the Development Plan.

The Air Quality Assessment has been considered by the Council's Environmental Health officer and it is accepted that the likely impact of the development upon the designated air quality management areas is not likely to be significant and that no further mitigation measures would be required in connection with this proposal. Thereby the proposal is considered to be consistent with Policies CP11 and EN3 of the Council's Adopted Core Strategy and Local Plan First Review respectively.

Overall, having regard to both the representations raised relating to highway/transportation issues, and the consultation response form the Highway Authority, the proposal is considered acceptable in terms of its likely transportation related impacts.

#### (viii) Drainage/Ecology

The application is accompanied by both a drainage statement and flood risk assessment. Foul drainage will be discharged to the existing public foul sewer, and surface water discharged to the existing public surface water sewer network via at a controlled discharge rate. South West Water have confirmed that the proposed approach is considered acceptable. Additional clarification in response to the comments of DCC as Lead Local Flood Authority have been provided and confirm that ground conditions at the site are not conducive to infiltration based SuDs, underground surface water storage has been adopted due to site constraints preventing above ground attenuation ponds, and that a lower controlled discharge rate in line with DCC comments can be achieved. The detailed design of the surface water drainage system can be agreed and secured via a condition attached to any approval.

The submitted Ecological Appraisal has identified that the site has limited ecological value for wildlife, including protected species. It concludes that providing the development is implemented in accordance with the recommendations contained within the report the proposal would have no significant adverse ecological impacts. It also concludes that the development of the site actually represents an opportunity to enhance its ecological value/contribution through appropriate landscaping and incorporation of bat and bird boxes within the building. A condition is proposed requiring submission of a wildlife plan to demonstrate how the development has been designed to enhance the ecological interest of the site.

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature and scale of the development it has been concluded that the proposal does not require an AA.

#### (ix) Landscaping/open space

The scheme proposed includes the provision of a large area of public open space on the northern part of the site that will be available for general use by the public (secured through a Section 106 agreement). This open space will be landscaped to with grass, specimen trees and wildflower/meadow planting and incorporate a footpath accessed from Ribston Avenue close to the existing bus stop providing a loop walk through the open space. This will provide an attractive amenity feature for the benefit of residents in the locality and create an attractive setting to the north of the building. It will be separated from the hospital and its immediate grounds by a gabion retaining wall and fencing.

#### Delegation Briefing

##### Meeting 03/07/18

Members discussed the application and some highlighted concerns in relation to highway matters and security which it was acknowledged would be raised by officers and the response reported back to a further delegation briefing.

##### Meeting 17/07/18

The proposed boundary treatments were clarified as comprising 1.8m high metal fencing (which on the northern boundary would sit on top of a gabion retaining structure). Security arrangements were clarified as outside security doors only accessible by staff and that the patient profile would comprise people who were vulnerable to the public rather than a risk to them. Members highlighted a discrepancy between the good working relationship with the nearby school head teacher suggested by applicant and the reality evident in the objection submitted by the head teacher. Some Members also suggested OFSTED would not approve of the development given its proximity to the school and that this would need to be considered by officers. It was noted that the application would be brought to a forthcoming Planning Committee for determination.

##### Meeting 20/11/18

Members were provided with an update on the position of the application, principally that the applicant's agent had clarified the nature of the hospital as an acute/low secure unit, and responded to the representations and consultation responses received. A question regarding the potential impact of any CCTV on the site in terms of relationship to the nearby school was raised. It was pointed out that the site was not actually directly adjoining the school, and was likely to be separated from it by future housing development. In this context it was not considered any CCTV employed by the hospital would impact upon the school. Members were advised that officers considered the proposal acceptable and that it would be brought to Planning Committee on the 3<sup>rd</sup> December for determination.

#### (x) Public Sector Equality Duty

Section 149 of the Equality Act 2010 requires that a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. 'Protected characteristics' include age and disability. So far as age is concerned, reference to a person who has or shares a particular protected characteristic refers to a person who is of a particular or the

same age group. A person has a disability or is disabled if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

The Equality and Human Rights Commission has suggested that the second aim (advancing equality of opportunity), requires a public authority to have regard to the need to: (a) Remove or minimise disadvantages suffered by people due to their protected characteristics; (b) Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and (c) Encourage people with certain protected characteristics to participate in public life or other activities where their participation is disproportionately low.

The Equality and Human Rights Commission 'Essential guide' July 2014 states: 'a public authority must consciously think about the need to do the things set out in the general equality duty as an integral part of the decision-making process. Having due regard is not a matter of box ticking. The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision. There should be evidence of a structured attempt to focus on the details of equality issues.'

In the circumstances of this case, the first and second aims appear to point in the direction of granting planning consent on the basis that the persons suffering mental ill health who are to be accommodated at the facility are likely to be disabled for the purposes of the Equality Act 2010. In respect of the third aim the location of the proposed hospital within a residential area provides the opportunity for the operator to foster good relations with its neighbours over time.

Through the analysis and appraisal set out in this report it is concluded that the nature of the proposal is such that, subject to the operational procedures and practices of the operator, the inspection regime of the relevant regulatory body, and the specific design features of the development (including boundary treatments), it would not have any significant adverse impacts in respect of safeguarding in respect of either children or adults (including the elderly) living in the vicinity, or attending the nearby school. Neither is it considered in this context that the proposal would fail to promote children's welfare. Thereby it is also considered that in terms of potential 'equality' impacts on those identified groups the proposal would neither negatively impact upon their equality of opportunity nor discriminate against them.

Conversely, the proposal would positively address the needs of a minority of the population with a protected characteristic, i.e. mental health illness. The consultation response from the Chief Nursing Officer of the Devon and South Devon and Torbay Clinical Commissioning Group acknowledges this as follows –

"All areas of provision are likely to advantage the local population in the provision of local specialist care which can often only be accessed outside of Devon."

Considering equality of opportunity in respect of those with mental health illness the following extract from the consultation response of the Devon Partnership NHS Trust is noted –

"I would say that facilities to support people with a variety of mental health needs are frequently built in residential areas and that we have many across Devon. While risk

and safeguarding are clearly issues of the utmost importance, we have to balance them with the need not to stigmatise or alienate people with mental health needs..”

Therefore from an equalities perspective it is considered that the balance of consideration overall weighs in favour of approval of the development.

(xi) Planning obligations (Section 106)

A Section 106 agreement would be required in the event of approval of the application in respect of the following matters –

- Public open space – provision, public access and maintenance arrangements
- Traffic order contributions (£3000)

The Head Teacher and others have raised objection that the proposal does not include any planning obligation securing a financial or other contribution to the School; but there is no basis for requiring any obligation and it would be unreasonable to refuse planning permission based upon its absence.

Conclusions

The decision remains one for members, to be taken having regard to the development plan and all material considerations. The development is considered to be in accordance with relevant development plan policies. The development will: create jobs, both in relation to the construction and operational phase, that will contribute to a strong local economy; help to meet current and future needs in relation to the provision of mental health treatment facilities; provide an element of publicly accessible open space; and secure environmental enhancement of the site’s biodiversity interest through the proposed landscaping and maintenance. It will not, on the other hand: conflict with the requirement to have due regard to safeguarding children’s interests or protect Art. 8 rights, where they arise; be associated with a justified perception of fear of crime or other anti-social behaviour. Having regard to the 3 overarching objectives of sustainable development identified in the NPPF (economic, social and environmental), the proposed development is considered to represent sustainable development.

The development is also considered acceptable in terms of its design, layout, relationship to surroundings, landscaping and transportation impacts. Therefore, in the absence of any significant material considerations to suggest that the application should be refused, and having had particular regard to safeguarding matters and the welfare of children, it is considered that the presumption in favour of sustainable development, as set out in paragraph 11 of the NPPF, applies and the recommendation is one of approval.

**RECOMMENDATION**

Subject to completion of a S106 covering the matters referred to above APPROVE the application subject to the conditions listed below:-

In the event that the section 106 agreement is not completed within 6 months of the date of this committee meeting, authority be delegated to the City Development Manager to REFUSE permission for the reason that inadequate provision has been made for the matters which were intended to be dealt with in the section 106 agreement.

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

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

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 5th June, 11th and 19th October 2018, and 11<sup>th</sup>, 18<sup>th</sup> and 29<sup>th</sup> March 2019 (including dwg. nos. CYG-PHS-XX-ZZ-DR-A-90-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-003 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6, CYG-PHS-XX-00-DR-A-22-001 Rev P2, CYG-PHS-XX-01-DR-A-22-002 Rev P2, CYG-PHS-XX-ZZ-DR-A-27-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-20-001 Rev P5, CYG-PHS-XX-ZZ-DR-A-90-005 Rev P3, Landscape General Arrangement 0011, Landscape Design 003 and Landscape Site Sections 002E) as modified by other conditions of this consent.

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

3) 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.

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

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of securing hoarding, if appropriate, which shall be kept clear of graffiti and fly-posting.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- h) No burning on site during construction or site preparation works
- i) Measures to minimise noise and vibration nuisance to neighbours from plant and machinery.
- j) No driven piling without prior consent from the LPA.
- k) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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

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.

5) 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.

6) The building hereby approved shall not be brought into use until the landscaping has been completed in accordance with the approved plans and a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved maintenance schedule shall be adhered to.

Reason: - In the interests of the visual amenity of area and to ensure appropriate maintenance measures are implemented to secure the longevity of the implemented landscaping scheme.

7) No part of the development hereby approved shall be brought into its intended use until the vehicular parking, on-site turning area, vehicular and pedestrian access points onto Ribston Avenue as indicated "Drawing Number CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6" has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that a safe and suitable access is achieved, in accordance with paragraph 108 of the National Planning Policy Framework.

8) No part of the development hereby approved shall be brought into its intended use until details of the pedestrian/cycle access to the adjacent residential site (to the south of Ribston Avenue) have been approved in writing by the Local Planning Authority and the pedestrian/cycle access has been provided, surfaced and marked out in accordance with the approved plans. Thereafter the said access shall be retained for those purposes at all times.

Reason: To provide a safe and suitable access for pedestrians and cyclists in accordance with Paragraphs 108 and 110 of the NPPF and CP9 of the ECC Core Strategy

9) Prior to the development hereby approved being brought into use secure cycle parking provision and staff changing facilities to serve the development shall be provided and made available for use in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said facilities shall be maintained at all times for the intended purpose.

Reason: To provide adequate facilities for sustainable transport.

10) No development shall take place until adequate areas have been made available within the site to accommodate operatives' vehicles, construction plant and materials and a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority.

The statement should include details of access arrangements, measures to minimise the impact on the adjacent footpath and timings of the proposed works. The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and public amenity

11) A comprehensive Travel Plan in line with the proposals mentioned in the submitted Travel Plan Statement (June 2018) and Car Park Management Plan for the site shall be

submitted to and approved in writing by the Local Planning Authority in advance of occupation of the development. The Travel Plan measures and Car Park Management Plan shall thereafter will be implemented in accordance with the approved details. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority as part of the Travel Plan thereafter.

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.

12) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts 1 and 2 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part 3 has been complied with in relation to that contamination.

#### 1. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### 2. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### 3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance, and where remediation is necessary an updated remediation scheme must be prepared in accordance with the requirements of part 1, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved updated remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part 2.

Parts 1, 2 and 3 must all be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

13) Prior to the commencement of the use hereby permitted, the kitchen ventilation system for the unit shall be installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall include drawings of the location and design of the system, and information on how odour emissions shall be controlled, including abatement if necessary, and how the system shall be maintained to ensure it does not adversely affect the amenity of surrounding uses.

The applicant should be advised that further guidance on the required information is available in annex B of the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

Reason: - In the interests of protecting the residential amenity of the occupants of surrounding properties.

14) Noise levels at the boundaries of the site associated with plant forming part of the development hereby approved shall not exceed the limits specified in Figure 1 attached to the WSP memo dated 21st September 2018 ref WSP-APM001 submitted in support of the application.

Reason - To protect the residential amenity of the occupants of surrounding properties.

15) Prior to the development hereby approved being brought into use boundary treatments to all 4 external boundaries of the site, and between the hospital and the open space, shall be erected in accordance with further detailed specifications that shall previously have been submitted to and approved in writing by the Local Planning Authority. The detailed specifications shall be based on the boundary treatments specified on the approved landscaping plans, and in the Design and Access Statement by Land Studio dated February 2019, and comprise detailed specifications (including construction specifications) for each boundary. Thereafter the said boundary treatments shall be maintained at all times.

Reason - In the interests of the visual amenities of the area, and the security of the site.

16) 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.

17) The detailed design of the proposed surface water drainage scheme to serve the site, including the associated maintenance and management arrangements, shall be submitted to and be approved in writing by the Local Planning Authority prior to the installation of the said drainage facilities. Thereafter the drainage shall be implemented and managed and maintained in accordance with the approved details. Those details shall include:

a) a timetable for its implementation, and

b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any

other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

Reason: To ensure the satisfactory drainage of the development. This information is required before development commences to ensure that any drainage scheme is properly designed and implemented at the appropriate stage.

18) Prior to occupation of the building hereby approved a Wildlife Plan which demonstrates how the proposed development has been designed to enhance the ecological interest of the site, and how it will be managed in perpetuity to enhance wildlife, has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out and managed strictly in accordance with the approved measures and provisions of the Wildlife Plan.

Reason: In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

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## Appendix A

Original Officer Report and associated Update Sheet in respect of Application 18/0873/FUL presented to ECC Planning Committee on the 3<sup>rd</sup> December 2018.

## PLANNING COMMITTEE

3 DECEMBER 2018

### ADDITIONAL INFORMATION

Correspondence received and matters arising following preparation of the Agenda

#### **Item 5 : 18/0873/FUL : Pages 21-38 : Land at Ribston Avenue**

Since the main report was prepared 13 further representations have been received, some from new people and some from those who had already objected but wished to re-iterate their views.

These 7 further representations raise similar issues to those raised in the other representations as summarised in the main report and raise no significant new issues.

One of these late representations questions the relevance of the recent appeal decision referred to the main officer report to Committee, questioning the conclusions regarding 'fear' as a material consideration and suggesting the site in Wales has a different context.

#### **Item 6 : 15/0640/OUT and 15/0641/OUT : Pages 39-72 : Aldens Farm, Alphington**

One additional letter of objection to both applications from the Exeter Civic Society.

Concerns/objections raised:-

- i) Inadequacy of highway data and road safety audit produced by applicant, as highlighted by DCC, which not been resolved;
- ii) Contribution from these applications should be sought for off-site improvements to link existing infrastructure, and any approval should condition the provision of dedicated cycle routes within the development rather than shared paths;
- iii) Through routes should be reviewed (to avoid rat-runs) except for bus routes if deemed essential;
- iv) In developing bus services the development of the wider area should be considered rather than this development in isolation;
- v) In any approval of these applications it should be mandated that footpaths/cycle paths are linked to adjoining sites to give access to community facilities;
- vi) If the western application is approved it should be mandated that the applicant provides a pavement to the north of Shillingford Road together with a zebra crossing to ensure this site is linked to Alphington infrastructure;
- vii) It is important that pedestrian and cycle access is developed off-site to both Alphington primary school and the proposed new school to the south of the A379 and these developments should contribute towards this if necessary.

#### **Item 7 : 18/1088/ECC : Pages 73-80 : Mallison Bridge, Exeter Quay**

Nothing further to report.

# Agenda Item 5

**COMMITTEE DATE:** 03/12/2018

**APPLICATION NO:** 18/0873/FUL  
**APPLICANT:** Cygnet Health Care  
**PROPOSAL:** The construction of a 54-bed independent hospital with access, car parking, landscaping/open space and associated works.  
**LOCATION:** Land At Ribston Avenue, Ribston Avenue, Exeter, EX1 3QE  
**REGISTRATION DATE:** 05/06/2018  
**EXPIRY DATE:**

## **HISTORY OF SITE**

There is no planning history relating to the application site which is considered directly relevant to the current application.

The adjoining land, also formerly part of the old St Lukes School is the subject of the following application for residential redevelopment that is now the subject of an appeal following refusal of planning permission by the City Council –

18/0534/FUL - Construction of 48 dwellings (use class C3), means of access, public open space and associated infrastructure. Currently undetermined.

## **DESCRIPTION OF SITE/PROPOSAL**

The application site extends to approximately 1ha and slopes gently from north to south. The site is bounded to the north by existing residential properties on Sargent Close and Ribston Avenue, to the east by Ribston Avenue, to the south by land also formerly comprising part of the school which is currently subject of an application for residential redevelopment, and to the west by the rear of properties on Warwick Road. Along this western boundary there is a belt of existing trees which provide a screen between those properties and the application site. There is an existing access point in the south west corner of the site at the junction of Ribston and Bramley Avenue.

Planning permission is sought for the construction of a 54 bed secure independent hospital that will specialise in treatment of patients with mental health care needs, along with associated parking, landscaping and boundary treatments. Vehicular access to the facility is proposed by an access onto Ribston Avenue. The proposal also includes the provision of an element of public open space on the northern part of the site. The hospital building will be located on the southern part of the site with parking and servicing to the front and rear of the building. An internal access road connects the front and rear parking areas running between the hospital site and the open space. The hospital building proposed is predominantly 2 storey in height and fencing will separate the hospital and grounds from the open space.

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

The application is accompanied by the following supporting documents –

- Planning Statement
- Explanation of service/facility proposed
- Design & Access Statement
- Level 1 Flood Risk Assessment & Drainage Strategy
- Drainage Strategy
- Preliminary Ecological Appraisal
- Transport Statement
- Travel Plan Statement
- Statement of Archaeological Potential, Impact and Mitigation
- Arboricultural Report
- Statement of Public Consultation

## **REPRESENTATIONS**

212 letters of representation have been received raising the following matters –

- Lack of parking for staff/patients/visitors leading to more parking congestion and associated highway safety implications and potential hindrance of access for emerging vehicles in locality
- Security – fencing, patient controls on access/leaving facility, risk of escape
- Nature of patients – Mental health, severity of risk, potentially disruptive and violent
- Inappropriate location – proximity to school and in residential area with many elderly residents
  - Safety of community generally but especially safeguarding of school children/young children in area given potential backgrounds of patients
  - Irresponsible to allow it and endanger local community
  - Exposure to inappropriate language, behaviour/activities
  - Perception of fear – in relation to both safety and crime
  - Antisocial behaviour
  - Adverse impact on attractiveness of the school as a choice for future parents
  - Poor location/environment for patients
- Increased traffic – congestion, roads inappropriate/adequate, already a 'rat run', roads already in poor condition
- Inadequate infrastructure to serve facility – road conditions etc.
- Impact on bus service – increased use, exacerbate difficulties for bus access on roads
- Lack of cycle path on site, level and location of cycle parking provision, facilities for staff cycling to work
- Track record/competency of operator – poor treatment of patients CQC (Care Quality Commission) findings/concerns at their other hospitals
  - Staffing levels/skills
  - Administration/record keeping
  - Quality of facility and safety

- Security
- Other better locations e.g. industrial estates or rural areas, Cranbrook, Former L&M headquarters at Clyst St Mary, somewhere in a new development where people can choose to live near it
- Lack of consultation – misleading/vague by developer and not extensive enough by Council
- Lack of adequate external space for patients
- Noise pollution
- Air pollution
- General disturbance to local community arising from shift work, change overs at unsociable hours
- Ability to staff facility – drain on NHS staff
- Demand for such a facility (Need)
- Building too big/overdevelopment
  - Loss of view
  - Loss of privacy to surrounding properties
  - Overshadowing/overbearing
  - Design out of keeping with area
- 24 hour operation – impact on surrounding residential area
- Why is open space provided
  - encourage youth gathering at night
  - better used to provide additional parking or amenity space for patients
- Why remove existing fence around site
- Impact on property values/saleability
- Should remain in educational use, thought there was a covenant on land relating to community/education use only
- Lack of open space/play areas locally
- Increase undesirable activities in locality – drug taking/dealing
- Disruption during construction – traffic, noise, dust
- Construction traffic – safety and amenity issues
- Not want the community wants
- Better uses for site – more community or business focused
- If allowed a very high fence around site is required

## **CONSULTATIONS**

**County Head of Planning, Transportation and Environment** – Concludes no objection and recommends various conditions relating to transportation matters such as the delivery of pedestrian access points, provision of parking/access prior to use of building commencing, cycle parking details, CEMP and Travel Plan. The response includes detailed comments on transportation matters associated with the proposal which will be referred to later in this report.

**Environmental Health** – Initially identified a need for additional information comprising an Air Quality Assessment, land contamination risk assessment and background noise survey. Further information in respect of these matters has subsequently been provided. The submitted documents are considered acceptable and therefore in the event of approval the following

conditions have also been recommended – CEMP, land contamination, noise and kitchen extraction.

**Wales & West Utilities** – “Wales & West have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.”

**South West Water** – Highlight proximity of a public sewer, confirm clean potable water can be provided for the development, comment on surface water drainage and need to ensure this is discharged as high up the hierarchy of drainage options as is reasonably practicable. Confirm no concerns in terms of drainage connections.

**DCC (Lead Local Flood Authority)** – Refer to Core Strategy policy CP12 (mitigation of flood risk) and identify further additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

**Police (Designing Out Crime Officer)** – Comments on the proposed boundary treatments, physical security standards e.g. window/door designs, internal arrangements, lighting, CCTV and sought confirmation the development will be constructed to ‘Secure by Design’ standards.

**OFSTED** – No comments received.

## **PLANNING POLICIES/POLICY GUIDANCE**

### **Central Government Guidance**

National Planning Policy Framework (NPPF):- specifically

- 2. Achieving sustainable development
- 4. Decision Making
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

### **Exeter Local Development Framework Core Strategy 2012**

Objectives 1-10

- CP1 – Spatial approach
- CP9 – Strategic transport measures to accommodate development
- CP10 – Meeting Community Needs
- CP11 – Pollution and air quality
- CP12 – Flood risk
- CP14 – Renewable and low carbon energy
- CP15 – Sustainable design and construction
- CP16 – Strategic green infrastructure
- CP17 – Design and local distinctiveness
- CP18 – Infrastructure requirements and developer contributions

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

AP1 – Design and location of development  
AP2 – Sequential approach  
T1 – Hierarchy of modes of transport  
T2 – Accessibility criteria  
T3 – Encouraging use of sustainable modes of transport  
T10 – Car parking standards  
C5 – Archaeology  
EN2 – Contaminated land  
EN3 – Air and water quality  
EN4 – Flood risk  
EN5 – Noise  
DG1 – Objectives of urban design  
DG2 – Energy conservation  
DG4 – Residential layout and amenity  
DG5 – Provision of open space and children’s play areas  
DG7 – Crime prevention and safety

### **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.

DD1 - Sustainable Development  
DD13 - Residential Amenity  
DD20 - Sustainable Movement  
DD21 – Parking  
DD25 - Design Principles  
DD26 - Designing Out Crime  
DD30 - Green Infrastructure  
DD31 - Biodiversity  
DD34 - Pollution

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

Archaeology and Development SPG 2004  
Planning Obligations SPD 2009  
Sustainable Transport SPD 2013  
Trees and Development SPD 2009

### **OBSERVATIONS**

#### Background

The development comprises a 54 bed independent hospital to meet a need identified by the applicant/operator following discussions with the Devon Partnership NHS Trust. The proposed hospital would have 3 services as a dedicated inpatient service:-

- 17 beds for men with acute mental health needs

- 21 beds for men who require a period of longer term mental health rehabilitation
- 16 beds for women who require a low secure environment for treatment of an emotionally unstable personality disorder
- The submitted documents state this will meet an unmet need locally for patients who currently have to access such services outside of Devon and the South West.

The main material planning considerations relevant to the assessment of this proposal are considered below –

#### Nature of proposed use

During the processing of the application the exact nature of the facility proposed has been clarified as an independent hospital for the provision of care to people in need of care, particularly in respect of mental health related matters and treatment. The applicant's agent has confirmed that the range of mental health facilities is as follows –

- Acute
- Low secure
- Medium secure, and
- High secure (being the highest security level)

It has been confirmed that the facility the subject of this application will be for the provision of care and treatment to patients falling in the 'Acute to Low Secure' range.

In the context of this proposal the reference to security refers to the fact all the outside doors of the building are access controlled with staff managing them so that no-one is able to enter or leave the building without their knowledge. It has also been confirmed that all patients of the facility would be risk assessed by a multi-disciplinary team before they are allowed leave to the community, i.e. to leave the building, and that often such leave will be accompanied by a care worker or family member.

Given the profile and needs of the intended patients the 'security' nature of the proposed facility is necessary to ensure the safety of the patients as people vulnerable to exploitation by others, and to prevent them from harming themselves, rather than there being a danger to society generally from these patients.

The difference between 'security' in this context and that in respect of secure residential institutions falling within Class C2a, including secure hospitals alongside uses such as prisons, detention centres and custody centres, which might be considered less appropriate in a residential area has previously been recognised in the Courts. The difference being that in respect of a C2a use their main purpose is to keep persons under control who are a potential danger to society at large as opposed to residential institutions whose primary function is the provision of care to people in need of care but they may incorporate ancillary security measures as part of the delivery of that care.

Consequently it is considered that in planning terms the proposal would be a Residential Institution falling within Use Class C2 rather than a 'Secure Residential Institution' within Use Class C2a. As such it is considered appropriate for the residential institution proposed in this application to be located within the residential context of the application site.

#### Layout/design/physical relationship of building to surroundings

Levels across the site fall from the highest point to the north down to the lowest point on the southern boundary. The western boundary of the site adjoining properties in Warwick Road comprises an existing mature tree belt.

The proposed layout of the site has been having regard to the level changes utilising the relatively level northern part of the site as open space and cutting the hospital building into the existing ground to create a level change with retaining wall and boundary fence separating the private space (hospital and its immediate grounds) from the public open space. Ground levels on the southern part of the site have been raised slightly to create a level site for the hospital building. The proposed layout provides for active frontage to Ribston Avenue with the entrance of the hospital building on this elevation. The vehicular access to the site is proposed from Ribston Avenue with the main parking area situated between the building and the road. A service road leads from this public parking area around the north of the building giving access to additional parking and servicing area to the rear of the building. This service road incorporates gates to enable access to this part of the hospital site to be controlled.

The building design incorporates 4 landscaped external courtyard gardens contained within the building envelope that will only be accessible internally from within the building. These spaces will provide safe outdoor amenity space for both patients and staff.

The hospital building itself is single storey in height on the northern part and 2 storey for the remainder giving it a domestic scale appropriate to the residential character of the surrounding area. The design incorporates separate pitched roof elements to the NE, NW and SE elevations which screen flat roof elements behind from public view. The existing trees along the western boundary are to be retained and will provide some screening of the building from the view of properties on Warwick Road.

External materials are predominantly brick with limited sections of render, aluminium windows/doors work and a grey zinc roof/cladding.

It is considered that the design and massing of the building is appropriate to the context of the site and its relationship to surrounding properties.

#### Residential amenity impact

It is clear from the representations received that there is a public perception of fear surrounding the nature of this proposal in terms of its potential impact on residential amenity and the safety and well-being of surrounding residents, including children attending the nearby primary school arising from anti-social or criminal behaviour associated with patients of the facility. Based on case law the risk and perception (fear) of anti-social/criminal behaviour arising from the proposed use is capable of being a material consideration in the assessment of the acceptability of planning proposals. However, in order to carry 'weight' in the determination of the application such 'fears' must be based on sound reasons, and be supported by a reasonable evidential basis for those 'fears'. Case law has established that unfounded fear in itself would rarely (if ever) be a reason to justify the withholding of planning permission.

Therefore it is important to consider the evidence when attributing weight to the fears raised in objections submitted in respect of this application as a material consideration. Although some of the representations have referred to adverse Care Quality Commission and press reports relating to standards/issues at other similar facilities (including some run by the same applicant – Cygnet) these relate to patient treatment and accommodation standards rather than matters

relating to incidents of anti-social or criminal behaviour in areas around other hospitals associated with patients of them. Objectors' concerns and anxiety about the proposed use are acknowledged. However there has been no solid evidence to demonstrate that the proposal would result in an increase in anti-social or criminal behaviour as a direct result of the proposed hospital and its use as such. It is noted that the applicant runs many other similar facilities throughout the country that are also located within residential areas and in close proximity to educational establishments without any apparent significant adverse impacts. Similar facilities are also operated by other providers in similar locations.

The applicant has clarified that security measures will ensure that no-one can enter or leave the building without the staff managing that, and in addition all patients will be risk assessed by a multi-disciplinary team before they are allowed leave to the community.

Therefore, based on the nature of the proposed use, security measures/practices that will be implemented by the operator, other comparable facilities in the country it is not considered that the proposal would significantly affect residential amenity in the locality, nor give rise to unacceptable impacts in respect of anti-social or criminal behaviour. In light of this, and the recognised need for this type of facility locally, it is concluded that little weight can be afforded to the perception of fear raised in representation, and that this would not constitute a justifiable reason to refuse permission for the development.

A recent planning appeal decision in Wales (November 2018) in respect of a hybrid application for full planning permission for a 54 bed low secure mental health unit and outline for housing addressed similar issues to those raised in this application. The application was refused contrary to officer advice. In allowing the appeal the Inspector commented as follows:

*"10. Although not clearly expressed in the reason for refusal, Members' concerns appear to have included the level of security of the Low Secure Unit and its compatibility with neighbouring residential areas and schools. As explained in the Council's committee report, the hospital unit would be designed and operated to prevent escape and to provide accommodation that is secure in terms of the health and well-being of its patients. Such units are for the treatment of low risk patients who do not need the level of physical security provided by Medium or High Secure Units.*

*11. There is a need for units of this sort in North Wales, and the proposal is supported by UDP Policy H11, which covers the provision of residential care homes, nursing homes and specialist health care services. In view of the secure nature of the unit and the low risk of its patients, I do not consider the proposed use would significantly affect the neighbouring land uses."*

Costs were also sought by the applicant, and in his letter relating to the costs application the Inspector commented as follows –

*"8. As to concerns about the use, I have taken that to refer to perceptions of risk associated with the low secure hospital unit, which I have concluded would not significantly affect the neighbouring land uses. However, no explanation of these perceptions has been provided, and no justification has been produced for this element of the refusal."*

On this basis the Inspector concluded that the Council had 'failed hopelessly' and ordered it to pay full costs to the applicant.

In response to comments about potential noise impacts arising from the development from the Council's Environmental Health officer an Acoustic report has been submitted establishing prevailing ambient noise levels to facilitate assessment of the potential impact of the building. The submitted information has identified maximum plant noise levels for each boundary to ensure that there is no significant adverse impact on the residential amenities of surrounding properties associated with the development. These levels have been agreed with the Council's Environmental Health officer and will be secured through an appropriate condition attached to any approval.

#### Highway/Transportation matters

The application site is located approximately 2.7 miles from the centre of Exeter and is served by an existing bus route that has a bus stop directly outside the site. The scheme provides a total of 49 parking spaces to serve the development, along with the provision of cycle parking in front of the building. The application is accompanied by a Transport Statement and an Air Quality Assessment.

As highlighted earlier in this report the Highway Authority (DCC) have raised no objection to the proposal on the grounds of its potential highway/transportation impacts in their formal consultation response. In terms of traffic generation/impact on the highway network they commented as follows –

*“A transport assessment has been submitted with the application. Predictions of the likely traffic generated by the development have been derived via a count at a similar site – it was considered that TRIC's was not suitable due to the lack of sites within the database (this method is what you would expect with a typical application). This is considered a reasonable approach and in addition to this, the applicant has added a factor for robustness. The resultant analysis shows that the proposed development (on a weekday) is likely to generate 26 two-way trips during the AM peak period with 14 in the PM peak period. Trips generated on a weekend have also been shown to have a low impact on the highway. The analysis also shows that users/visitors of the hospital have more flexibility in travel times and therefore an opportunity to avoid the travelling through busy parts of the network at the most congested times. Given its location with proximity of bus stops (immediately next to the site and on the Honiton Road corridor), the proposals are unlikely to have a significant effect on the highway network and does not form a reason for refusal.”*

In terms of the proposed access arrangements to serve the development the Highway Authority commented as follows –

*“Vehicular access is proposed via a dropped kerb onto a stub end of Ribston Avenue. This meets sufficient visibility requirements (2.4m x 25m for 20mph) and is acceptable in principle. To accompany the new vehicular access, footways on either side of the access road are provided. Maintaining the safety and attractiveness of this junction is essential and to mitigate this, the applicant has proposed tactile crossing, as indicated on “Drawing Number CYG-PHS-XX-ZZ-DR-A-90-004 Rev P5”. Such an access should have a tight radius and tactile to provide appropriate facilities for pedestrian/cyclists. Tracking*

*diagrams have been produced, proving that a refuse lorry can negotiate the proposed access point. More detail will be required at S278 stage.*

*The applicant also wishes to accommodate a secondary emergency access point – this will be located just south of the bus stop. The applicant may wish to explore the option of double yellow lines to protect this access and therefore a monetary sum of £3k is required for Traffic Regulation Order purposes; this should be secured via a suitable agreement.*

*A secondary pedestrian access point onto Ribston Avenue is proposed together with a private, informal zebra crossing point and is welcomed. South of the vehicular access point is a footway that is proposed to be built to the southern boundary – this connection is conditioned appropriately as it may be subject to change (dependant on the access arrangements of the residential application immediately adjacent (Planning ref: 18/0534/FUL)). A link will provide suitable access arrangements, allowing pedestrians/cyclists to walk/cycle through to Ringswell Avenue/Warwick Road and eventually to Honiton Road. Such a link will enhance pedestrian/cycling permeability and is necessary to promote sustainability of the site.*

*The applicant is reminded that the access point/footway to the south is to be constructed partly on adopted highway, but also on private land (owned by DCC). The applicant should approach DCC for this area to be brought up to an adoptable standard through a S38 agreement.*

*The applicant is advised that parts of the indicated area are HMPE and therefore permission must be obtained prior to undertaking any work on the highway. A Section 38/278 licence will need to be applied for alongside a Road Safety Audit. The applicant has indicated that the proposed road serving the site will remain private.”*

The Highway Authority have also confirmed that the level of parking proposed is considered acceptable to serve the premises having regard to comparison with similar sites/schemes elsewhere in the country. Advice in the Council's Sustainable Transport SPD suggests a parking ratio of 1 space/4 staff and 1 space/3 visitors for hospitals. Based on predicted staffing levels set out in the submitted documents it is considered that the level of parking proposed is consistent with the Council's suggested standard.

The Air Quality Assessment has been considered by the Council's Environmental Health officer and it is accepted that the likely impact of the development upon the designated air quality management areas is not likely to be significant and that no further mitigation measures would be required in connection with this proposal.

Overall, having regard to both the representations raised relating to highway/transportation issues, and the consultation response from the Highway Authority, the proposal is considered acceptable in terms of its likely transportation related impacts.

#### Drainage/Ecology

The application is accompanied by both a drainage statement and flood risk assessment. Foul drainage will be discharged to the existing public foul sewer, and surface water discharged to the existing public surface water sewer network via at a controlled discharge rate. South West Water have confirmed that the proposed approach is considered acceptable. Additional clarification in response to the comments of DCC as Lead Local Flood Authority have been provided and confirm that ground conditions at the site are not conducive to infiltration based SuDs, underground surface water storage has been adopted due to site constraints preventing above ground attenuation ponds, and that a lower controlled discharge rate in line with DCC

comments can be achieved. The detailed design of the surface water drainage system can be agreed and secured via a condition attached to any approval.

The submitted Ecological Appraisal has identified that the site has limited ecological value for wildlife, including protected species. It concludes that providing the development is implemented in accordance with the recommendations contained within the report the proposal would have no significant adverse ecological impacts. It also concludes that the development of the site actually represents an opportunity to enhance its ecological value/contribution through appropriate landscaping and incorporation of bat and bird boxes within the building.

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature and scale of the development it has been concluded that the proposal does not require an AA.

#### Landscaping/open space

The scheme proposed includes the provision of a large area of public open space on the northern part of the site that will be available for general use by the public (secured through a Section 106 agreement). This open space will be landscaped to with grass, specimen trees and wildflower/meadow planting and incorporate a footpath accessed from Ribston Avenue close to the existing bus stop providing a loop walk through the open space. This will provide an attractive amenity feature for the benefit of residents in the locality and create an attractive setting to the north of the building. It will be separated from the hospital and its immediate grounds by a gabion retaining wall and fencing.

#### Delegation Briefing

##### Meeting 03/07/18

Members discussed the application and some highlighted concerns in relation to highway matters and security which it was acknowledged would be raised by officers and the response reported back to a further delegation briefing.

##### Meeting 17/07/18

The proposed boundary treatments were clarified as comprising 1.8m high metal fencing (which on the norther boundary would sit on top of a gabion retaining structure. Security arrangements were clarified as outside security doors only accessible by staff and that the patient profile would comprise people who were vulnerable to the public rather than a risk to them. Members highlighted a discrepancy between the good working relationship with the nearby school head teacher suggested by applicant and the reality evident in the objection submitted by the head teacher. Some Members also suggested OFSTED would not approve of the development given its proximity to the school and that this would need to be considered by officers. It was noted that the application would be brought to a forthcoming Planning Committee for determination.

##### Meeting 20/11/18

Members were provided with an update on the position of the application, principally that the applicant's agent had clarified the nature of the hospital as an acute/low secure unit, and responded to the representations and consultation responses received. A question regarding the potential impact of any CCTV on the site in terms of relationship to the nearby school was raised. It was pointed out that the site was not actually directly adjoining the school, and was likely to be separated from it by future housing development. In this context it was not considered any CCTV employed by the hospital would impact upon the school. Members were

advised that officers considered the proposal acceptable and that it would be brought to Planning Committee on the 3<sup>rd</sup> December for determination.

### Section 106

A Section 106 agreement would be required in the event of approval of the application in respect of the following matters –

- Public open space – provision, public access and maintenance arrangements
- Traffic order contributions (£3000)

### Conclusions

The development is considered to be in accordance with relevant development plan policies and having regard to the 3 overarching objectives of sustainable development identified in the NPPF ( economic, social and environmental) the proposed development is considered to represent sustainable development.

The development is also considered acceptable in terms of its design, layout, relationship to surroundings, landscaping and transportation impacts. Therefore, in the absence of any significant material considerations to suggest that the application should be refused it is considered that the presumption in favour of sustainable development, as set out in paragraph 11 of the NPPF applies and the recommendation is one of approval.

### RECOMMENDATION

Subject to completion of a S106 covering the matters referred to above APPROVE the application subject to the conditions listed below:-

In the event that the section 106 agreement is not completed within 6 months of the date of this committee meeting, authority be delegated to the City Development Manager to REFUSE permission for the reason that inadequate provision has been made for the matters which were intended to be dealt with in the section 106 agreement.

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

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

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 5th June, 11th and 19th October 2018 (including dwg. nos. CYG-PHS-XX-ZZ-DR-A-90-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-003 Rev P1, CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6, CYG-PHS-XX-00-DR-A-22-001 Rev P2, CYG-PHS-XX-01-DR-A-22-002 Rev P2, CYG-PHS-XX-ZZ-DR-A-27-001 Rev P1, CYG-PHS-XX-ZZ-DR-A-20-001 Rev P5, CYG-PHS-XX-ZZ-DR-A-90-005 Rev P2, Landscape General Arrangement 001F, Landscape Design 003 and Landscape Site Sections 002D) as modified by other conditions of this consent.

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

3) 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.

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

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of securing hoarding, if appropriate, which shall be kept clear of graffiti and fly-posting.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- h) No burning on site during construction or site preparation works
- i) Measures to minimise noise and vibration nuisance to neighbours from plant and machinery.
- j) No driven piling without prior consent from the LPA.
- k) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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

**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.

5) 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.

6) The building hereby approved shall not be brought into use until the landscaping has been completed in accordance with the approved plans and a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved maintenance schedule shall be adhered to.

**Reason:** In the interests of the visual amenity of area and to ensure appropriate maintenance measures are implemented to secure the longevity of the implemented landscaping scheme.

7) No part of the development hereby approved shall be brought into its intended use until the vehicular parking, on-site turning area, vehicular and pedestrian access points onto Ribston Avenue as indicated "Drawing Number CYG-PHS-XX-ZZ-DR-A-90-004 Rev P6" has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that a safe and suitable access is achieved, in accordance with paragraph 108 of the National Planning Policy Framework.

8) No part of the development hereby approved shall be brought into its intended use details of the pedestrian/cycle access to the adjacent residential site (to the south of Ribston Avenue) have been approved in writing by the Local Planning Authority and the pedestrian/cycle access has been provided, surfaced and marked out in accordance with the approved plans. Thereafter the said access shall be retained for those purposes at all times.

**Reason:** To provide a safe and suitable access for pedestrians and cyclists in accordance with Paragraphs 108 and 110 of the NPPF and CP9 of the ECC Core Strategy

9) Prior to the development hereby approved being brought into use secure cycle parking provision and staff changing facilities to serve the development shall be provided and made available for use in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said facilities shall be maintained at all times for the intended purpose.

**Reason:** To provide adequate facilities for sustainable transport.

10) No development shall take place until adequate areas have been made available within the site to accommodate operatives' vehicles, construction plant and materials and a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements, measures to minimise the impact on the adjacent footpath and timings of the proposed works. The approved Statement shall be adhered to throughout the construction period.

**Reason:** In the interests of highway safety and public amenity

11) A comprehensive Travel Plan in line with the proposals mentioned in the submitted Travel Plan Statement (June 2018) and Car Park Management Plan for the site shall be submitted to and approved in writing by the Local Planning Authority in advance of occupation of the development. The Travel Plan measures and Car Park Management Plan shall thereafter will be implemented in accordance with the approved details. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority as part of the Travel Plan thereafter.

**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.

12) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 and 2 have been complied with. If unexpected contamination is found after

development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part 3 has been complied with in relation to that contamination.

#### 1. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### 2. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### 3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance, and where remediation is necessary an updated remediation scheme must be prepared in accordance with the requirements of part 1, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved updated remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part 2.

Parts 1, 2 and 3 must all be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

13) Prior to the commencement of the use hereby permitted, the kitchen ventilation system for the unit shall be installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall include drawings of the location and design of the system, and information on how odour emissions shall be controlled, including

abatement if necessary, and how the system shall be maintained to ensure it does not adversely affect the amenity of surrounding uses.

The applicant should be advised that further guidance on the required information is available in annex B of the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

**Reason:** In the interests of protecting the residential amenity of the occupants of surrounding properties.

14) Noise levels at the boundaries of the site associated with plant forming part of the development hereby approved shall not exceed the limits specified in figure 1 attached to the WSP memo dated 21st September 2018 ref WSP-APM001 submitted in support of the application.

**Reason:** To protect the residential amenity of the occupants of surrounding properties.

15) Prior to the development hereby approved being brought into use boundary treatments to all 4 external boundaries of the site, and between the hospital and the open space, shall be erected in accordance with further detailed specifications that shall previously have been submitted to and approved in writing by the Local Planning Authority. The details shall be based on the boundary treatments specified on the approved landscaping plans and comprise detailed specifications for each boundary. Thereafter the said boundary treatments shall be maintained at all times.

**Reason:** In the interests of the visual amenities of the area, and the security of the site.

16) 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.

17) The detailed design of the proposed surface water drainage scheme to serve the site, including the associated maintenance and management arrangements, shall be submitted to and be approved in writing by the Local Planning Authority prior to the installation of the said drainage facilities. Thereafter the drainage shall be implemented and managed and maintained in accordance with the approved details. Those details shall include:

- a) a timetable for its implementation, and
- b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

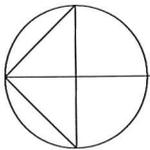
**Reason:** To ensure the satisfactory drainage of the development. This information is required before development commences to ensure that any drainage scheme is properly designed and implemented at the appropriate stage.

*Local Government (Access to Information) 1985 (as amended),*

*Background papers used in compiling the report:*

*Files of planning applications available for inspection from the Customer Service Centre, Civic Centre, Paris Street, Exeter. Telephone 01392 265223*

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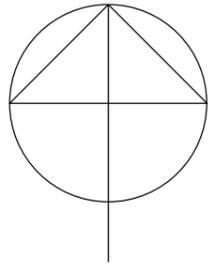
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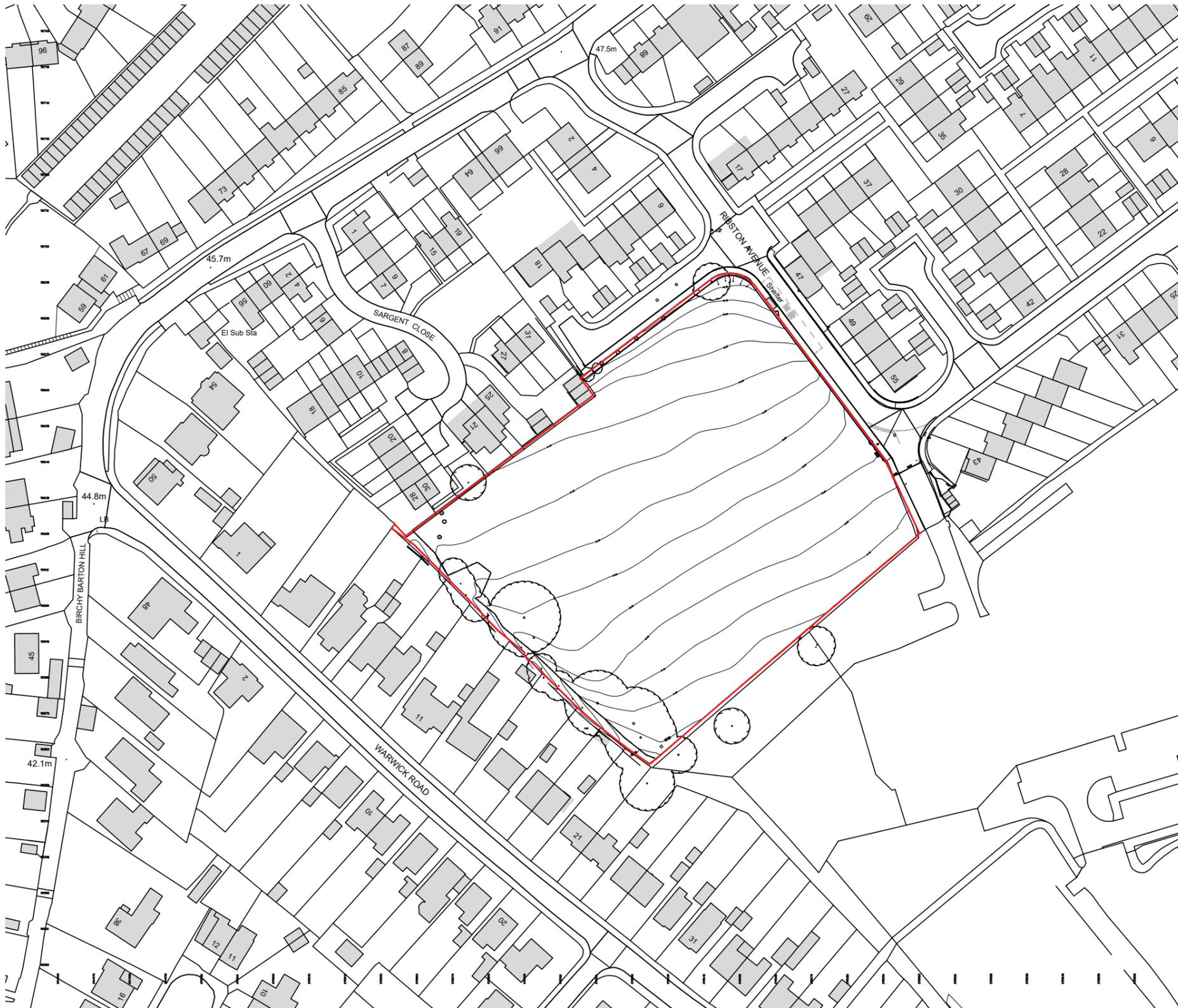
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Client	Cygnat Healthcare	Issued From	Newcastle
Project	2941 - LSU Exeter	Date	May 2018
Title	Location Plan	Scale	1:250@A3
Drawn	DS	Drawn	DS
Status	Auth	Status	Auth
Revision	DS	Revision	DS
Drawing Number	CYG - PHS-XX-ZZ-DR - A - 90 - 001		
			P1





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Client    Cygnet Healthcare  
Project    2941 — LSU Exeter  
Title    Location Plan

Issued From    Newcastle  
Date    May 2018  
Scale    1250@A3

Drawing Number

CYG -PHS-XX-ZZ-DR- A -90-001

Status    Revision

S2    P1

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# Agenda Item 6

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

**APPLICATION NO:** 18/1053/FUL  
**APPLICANT:** Btree GRP Ltd  
**PROPOSAL:** Change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, associated car and cycle parking, private amenity space and public footpath.  
**LOCATION:** Alphin House  
Mill Lane  
Alphington  
Exeter  
EX2 8SG  
**REGISTRATION DATE:** 11.07.2018

This report relates to two simultaneous applications which have been submitted for the same site. Application ref: 18/1275/FUL includes an additional 3 terraced units which are positioned within the flood zone outline and further intensifies the development, therefore the developer wanted to de-risk the proposal by setting this as separate applications as follows:

18/1053/FUL Change of use of former care home to provide 19 1 and 2-bedroom residential units, partial demolition including existing single storey side conservatory and redevelopment of a two storey side extension, 19 car parking spaces and 36 cycle parking spaces, private amenity space and public footpath.

18/1275/FUL Change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, construction of 3 terraced houses, associated car and cycle parking, private amenity space and public footpath.

## **SITE HISTORY**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
04/0996/CTY	Ground floor extension on north/west elevation	RNO	
03/1199/CTY	Two storey extension on east elevation	RNO	
02/1856/CTY	Provision of 14 car parking spaces on north of site	RNO	
96/0847/CTY	Single storey extension to provide day centre and ancillary external works including additional parking, turning and service access	RNO	

## **DESCRIPTION OF SITE/PROPOSAL**

Alphin House is a 1970's building, constructed as an elderly persons' home and sheltered accommodation, previously owned and operated by the County. The existing building is a part single part two-storey building, which has had an extension and conservatory added (ref: 04/0996/CTY). The building is surrounded by landscaping and some mature trees. A group tree preservation order has been placed on the site in order to protect the existing ecology. Alphin House is bound by Mill Lane to the east and Alphin Brook to the north of the site, located in a predominantly residential area, with the rear gardens of neighbouring properties abutting the boundary on the west. Alphington Primary School is further south-east of the site, while local shops, amenities and the city centre are a short walk or bicycle ride away. There are 25 existing car parking spaces and there is existing access to the site via Mill Lane.

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

Design and Access Statement  
Preliminary Ecological Appraisal Report  
Phase 2 Ecological Survey Report  
Summary Ecological Works Undertaken  
Arboricultural Appraisal Desk Top Study  
Arboricultural Impact Assessment  
Arboricultural Protection Plan  
Tree Constraints Plan  
Contaminated Land Desk Study  
Flood Risk Assessment (November, 2018)

## **REPRESENTATIONS**

27<sup>th</sup> July 2018 and 19<sup>th</sup> February 2019

Twenty-three (23) letters were sent out to neighbours and interested parties

The Council received twenty-one (21) responses; one (1) comment and twenty (20) letters of objection raised the following concerns which are material planning considerations:

- Highway safety for pedestrians and cyclists (children and families going to and from Alphington Primary School and West Exe);
- No walkways/pavements between Mandrake Road and the bridge
- Parking, no vehicle passing places except in the driveways of nos. 3 and 5 Mill Lane
- Traffic generation during and after construction
- Impact on small bridge due to construction traffic
- Incremental increase in traffic and parking on football and cricket matches at the adjacent playing field
- Turning of service vehicles
- Impact on existing drainage and sewage
- Overdevelopment
- Landscaping/Visual amenity
- Character and identity of 'rural', 'village'

- Use

Chairman, Alphington Village Forum – difficult and dangerous access; Mill lane is narrow with few pavements; too few parking spaces; adds to peak traffic congestion at Church Road; Use as age restricted to over 70's or nursing home preferred.

## **CONSULTATIONS**

The County Head of Planning, Transportation and Environment – raised no objections, recommended legal obligations and conditions for further details to be submitted for:

- vehicle access, on-site parking and turning areas
- the proposed footway
- cycle parking
- construction method statement
- Framework Travel Plan/Car Park Management Plan
- Section 38/278 licence

Environment Agency – *'The FRA has correctly assessed the flood risk and applied suitable mitigation measures for the proposed development. The FRA has also correctly identify that the site is technically in Flood Zone 1. Our Flood Zone 2 maps include any historical flood outline regardless of the size of the flood or changes to the landscape/river corridor. If we ignore the 1960 flood outline, and use the best available modelling this site is at little or low river flood risk.'*  
As such EA removed their original objection on the application.

Devon County Council Flood and Coastal Management Team– *'we have no in-principle objection to the above planning application'* subject to condition relating to the surface water drainage management system, requiring the applicant to inspect and report on the existing drainage network and make improvements where necessary.

City Council's Housing Development Officer – raised no objection subject a section 106 legal agreement that the applicant deliver two (2) social rented units on site, or the equivalent.

Devon and Cornwall Police – Raised no objection and offered recommendations relating to access and movement, surveillance, activity, physical protection, management and maintenance, which have been responded to by revisions to the application received by Officers, and/or will be conditions as part of further details to be submitted with the application such as lighting, materials, management and maintenance.

Council's Arboriculture officer– Raised no objections

Devon Garden Trust – No response received

## **PLANNING POLICIES/POLICY GUIDANCE**

### **Central Government Guidance**

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

### **Exeter Local Development Framework Core Strategy**

CP3 – Housing

CP4 – Density  
CP9 – Transport  
CP17 – Design and local distinctiveness

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

DG1 – Objectives of Urban Design  
DG4 – Residential Layout and Amenity  
DG7 – Crime Prevention and Safety  
T3 – Encouraging Use of Sustainable Modes

#### **Exeter City Council Supplementary Planning Document**

Residential Design SPD (Sept 2010)  
Sustainable Transport SPD  
SW Exeter Development Brief (2014)

#### **Exeter City Council Development Delivery DPD**

DD13 – Residential Amenity  
DD25 – Design Principles  
DD26 – Designing out Crime

### **OBSERVATIONS**

#### **Principle of the development**

The use of the site is a nursing home which was operated as such since 1970s when it was built, categorised as a 'Community Service' in the Local Plan.

The 'Community Services' objectives set out in chapter 8, of the Council's Local Plan aims;

- *to protect and enhance existing community facilities*
- *to promote the provision of new community facilities*

Core Strategy Policy CS6 states that, "*development that would cause harm to the provision of community space in an area will not be permitted.*" Furthermore Policy CP10 of the Core Strategy states, "*Facilities that meet Exeter's community, social, health, welfare, education, spiritual, cultural, leisure and recreation needs will be protected.*"

Emerging Development Delivery Development Plan Document Policy DD23 states:

*"All land or buildings in community use, or allocated for community use, will be protected. Any loss of land or buildings in community use will only be permitted where:*

- (a) there is no reasonable prospect of the existing use continuing on a viable basis, nor securing a satisfactory viable alternative community use;*
- (b) or, there are adequate facilities in the area to meet demand; or,*
- (c) the community will benefit from the provision of replacement facilities of equivalent or better quantity and quality in a suitable location provided to a timescale that avoids any significant break in use."*

According to a report by Devon County Council on the Alphin House, residential care home, the viability assessment for the future of the home concluded that the building failed to meet current care standards and in general terms was not fit for purpose as a care or community building (Consultation on the future of Alphin House Residential Care Home, Exeter DCC, 2014). Devon County Council place 90% of their residential clients in the independent sector. In their 2014 report, DCC states that "*in Exeter there is a new 68 bed care home registered for Residential*

*and Nursing care, including Dementia services opening during the summer and we will be discussing any opportunities arising from this development with this provider. There is also planning for 2 further 60 bed homes in Exeter.”* In 2017, Devon County Council sought offers to purchase Alphin House for which the client submitted a successful offer. At the time of sale the site had not provided any community use for approximately 3 years.

The Core Strategy also identifies that Exeter has an imbalance between housing supply and demand, and therefore to meet this demand the council prioritises maximising the use of previously developed land. Policy CP3 identifies that 12,000 new homes are needed in the city by 2026 and this proposal seeks to provide twenty-two (22) new homes including Affordable Housing.

For the reasons outlined above it is considered that for the reasons set out above, on balance the loss of the community facility is acceptable on the basis that from the information provided at the time of the application subsections a-c of DPD Policy DD23 have been met and the alternative use as residential development contributes to the Council's priority in providing 12,000 new homes by 2026, and Officers therefore consider that this change of use is acceptable.

### **Character and Appearance**

The proposal is for the refurbishment and change of use of an existing building into 19 residential units and three standalone terraces. The conversion will require the demolition of the existing side extension and conservatory on the north elevation and redevelopment of a two storey extension in its place, extending no further than the existing structure. Part of the single storey structure will also be demolished on the west elevation, allowing the existing private access road to continue to the south side of the building. The access road will connect to the existing hardsurfaced area, south of the site which will be retained for parking. Individual units are accessed from the perimeter of the building, providing passive surveillance. In terms of amenity space, there is an internal courtyard/amenity area with private access from units 1-4 and 6, and units 17-19. All units, including the three terraces, will have access to the 500sqm of communal residential amenity space which surrounds the site.

For reasons outlined above and considering its design, siting, scale, massing, layout and subject to materials to be conditioned, the proposals are acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policy DG1 and DG4 of the adopted Local Plan (2011) and the Residential Design Guide SPD.

### **Residential Amenity**

The proposal is for a conversion of an existing building previously in use as a nursing home, into residential maisonettes, and three associated terraced units. The proposed conversion (ref: 18/1053/FUL) is to create eighteen (18), 2-bedroom units and one 1-bedroom unit. The phase 2 development is for the conversion and redevelopment as well as the provision of an additional three terraced units ref: 18/1275/FUL).

The Government published its Technical Housing Standards - nationally described spaces standards (2015), which deals with internal space within new dwellings and the following is relevant to this proposal:

Number of bedrooms (b)	Number of bed spaces (persons)	2 storey dwellings	Built-in storage
1b	2p	50	1.5
2b	3p	70	2.0
	4p	79	
3b	4p	84	2.5
	5p	93	
	6p	102	

Extract Technical Housing Standards - nationally described spaces standards (2015)

The standards also require a minimum 11.5sqm for a double bedroom and 7.5sqm for a single bedroom. Two of the proposed units created as part of the conversion are marginally below the national described space standards by 6sqm (unit 10) and 1sqm (unit 12), however the bedrooms for these units exceed the national space standards for the individual room sizes. Furthermore, as many as fifteen units exceed the overall space standards for their GIA, all units accommodate an acceptable level of storage space, therefore on balance it is considered that the residential amenity where concerns internal space standards is acceptable.

#### Outdoor amenity space

The Council's Residential Design Guide SPD requires that a minimum of 20sqm per flat is provided. The requirement is therefore 380sqm of amenity space, however the applicant has exceeded this and provided 500sqm of communal garden space. Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any future or neighbouring occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

#### **Highways**

Chapter 9 of the NPPF, Promoting Sustainable Transport, *Considering development proposals* states;

*108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

*(a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*(b) safe and suitable access to the site can be achieved for all users; and*

*(c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

*109. 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.*

110. *Within this context, applications for development should:*

*(a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*

*(b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

*(c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*

*(d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*

*(e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

111. *All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.*

Local Plan Policy paragraph 9.42 states *'Reducing the level of parking provision in new development is essential in order to promote sustainable travel choices.'* Policy T10 schedule 3, provides for maximum parking standards outside the pedestrian priority zone as 1.5 spaces per dwelling, which is echoed in the Residential Design Guide SPD. However, this figure is a 'maxima' which allows for a lower provision where appropriate and in some cases 'car free' development. Furthermore, NPPF Chapter 9, para. 106 states *'Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport ...'* Therefore it should be noted that the parking standard quoted from the Local Plan and the SPDs is not a minimum, and in this instance a lower provision is considered acceptable for the following reasons:

The Core Strategy further supports this where paragraph 2.26 states *'Transport is responsible for 22% of Exeter's CO2 emissions. Reductions from the transport sector will be needed as part of the transition to low carbon economy.'* Objective 5 of the Core Strategy is to achieve a step change in the use of sustainable transport and aims to *'Minimise the need to travel and reduce the dependence on the car...'* The application site is a brownfield site and is in a sustainable location. There are buses running along Church Road, it is located adjacent to an "advisory cycle route" and it is within close walking/cycling distance to the City Centre, schools and key employments hubs such as Marsh Barton. A transport assessment has been submitted with the application which has been reviewed by DCC Highways. A number of objections have been received from local residents concerning highways issues including parking, pedestrian and cycle safety, and general infrastructure capacity issues.

The Highways Officer considered the resultant vehicle trip rates and associated traffic generation for both proposals which indicate that there will be a net increase 8 two-way trips in the AM Peak and a net increase of 5 two-way trips on the PM Peak. It is noted that this quantum of traffic generated at the proposed development is double to the previous use.

However, notwithstanding the level of congestion during school pick up/drop off periods which, Highways Officers are aware is experienced at Mill Lane/Mandrake Road, this situation is not dissimilar to roads serving schools around Exeter during the AM Peak. It should be noted that there will be very little interaction of traffic generated by the development during school pick up/drop off in the afternoon peak and no interaction at all in the PM peak.

DCC Highways Officer advises that a school travel plan can be either updated or produced – which can introduce a modal shift towards helping reduce vehicular trips. This would go some way in alleviating some of the congestion associated with pick up/drop off periods.

Furthermore, the applicant's Transport Assessment made reference to Personal Injury Accident (PIA) data which was obtained from Devon County Council, covering Mill Lane and approximately 100m either side of the junction of Mill Lane and Church Road. The data indicates that no incidents have occurred on Mill Lane or in the vicinity of the site access.

As such, given the above the vehicular impact of the development cannot be deemed as severe, Officers consider that the development is therefore acceptable with this regard.

#### Access

Vehicular access is proposed via an access off Mill Lane which is an existing vehicular access. Furthermore the actual vehicular access from the development onto Mill Lane has sufficient visibility requirements (2.4m x 25m) for a slow speed environment and therefore, is acceptable.

Mill Lane is primarily shared space between Mandrake Road and the proposed site. Footways are present between Mandrake Road and Church Road. Neighbours have objected on the ground that there will be increased safety risk to pedestrians using Mill Lane, as a result of traffic generated by the development. The development will create an increase in traffic on Mill Lane and to mitigate this, the applicant is providing a 2m wide footway within the red line boundary, segregating pedestrians from vehicles. This is shown indicatively on Drawing Number 17447 Rev E, further details of which will be secured through a condition and s106.

DCC Highways and ECC Planning and Property Officers have discussed the option of providing a footway on Alphington Playing fields for further pedestrian/vehicular segregation. However this is outside the redline boundary of this planning application and, a shared space philosophy approach is considered acceptable given the limited number of vehicles associated with the development in question.

The applicant is advised that parts of the indicated area are HMPE and therefore permission must be obtained prior to undertaking any work on the highway. The applicant will therefore be required to enter into a Section 38/278 with the Highways authority which will be secured through the s106.

The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework. The means of access arrangements are considered acceptable and maintain highway safety standards.

## Car Parking

There is existing parking on site. The previous planning application ref: 96/0847/26, granted permission which included 6 parking spaces and turning facilities, while under ref: 02/1856/CTY a further 14 parking spaces were approved. Historic plans for the site also show that there are 5 existing parking spaces on the forecourt facing Mill Lane, prior to the 2002 application. Therefore there are a total of twenty-five (25) existing car parking spaces which served the 35-bed nursing home, staff and visitors.

The Phase 1 development which seeks the conversion of the nursing home in to 19, 1-bed and 2-bed units, proposes 1 parking space per unit. In addition, the three terraced units, forming the Phase 2 development, will have 1 parking space each. As such twenty-two (22) parking bays will be proposed to serve both phases of the development. This figure is also below the maximum standard set in the ECC Residential Design Guide and Sustainable Transport SPDs and Exeter's Local Plan. Furthermore, the development is located in a sustainable location, within walking distance to the local primary school, local shops and other amenities, there are four bus routes within 5 minutes' walk, providing services to and from the city centre and further afield, with services as regular as 10 minute intervals, in addition St Thomas train station is a short bicycle ride away. Therefore, considering the development is in a highly sustainable location, and the number of parking spaces are similar to that already existing, the proposed off street parking is in line with Local and National Policies relating to parking and sustainable transport policies, relating to reducing the need to travel and dependency on the private car.

In comments provided by DCC Highways the Officer concurs that 'given the quantum [of proposed parking] just falls short of the SPD and the sustainable nature of the site, the number of spaces provided is acceptable. However, it might be in the interests of the applicant to implement a car park management plan to prevent vehicles (relating to school pick up/drop off traffic) parking within the development and to prevent vehicles relating to the development parking on nearby residential roads i.e. Mill Lane. Therefore a condition will be attached to any decision notice which will require that a 'Framework Travel Plan/Car Park Management Plan' will be submitted for approval by the local Planning Authority, which is in line with paragraph 111 of NPPF chapter 9 which requires that, *'all developments that will generate significant amounts of movement should be required to provide a travel plan.'*

## Cycle Parking

Exeter's Local Plan Policy T3 requires that *'b) suitable parking provision is provided in accordance with the standards set out in schedule 2.'* Schedule 2 requires 1 cycle parking space per 1-2bed dwelling and 2 spaces per 3 or 3+ bed dwelling. Core Policy CP9 requires *improvements to facilities for pedestrians and cyclists*, and the City's Sustainable Transport SPD further states this in chapter 5 Table 2.

The applicant has provide details of secure, sheltered cycle parking for 32 bicycles located at the front of the site adjacent to Mill Lane. DCC Highways Officer has stated that *'cycle parking standards should be exceeded...'* The proposed provision for cycle parking is therefore considered acceptable for the entire site, within the communal facility, the number of spaces exceeds the minimum standards for all units, with ample additional spaces for visitors.

## **Flood Risk**

The site is partially located within Flood Zone 2 according to the EA's flood mapping data and is therefore categorised as land assessed as having between 1 in 100 and 1 in 1,000 annual

probability of river flooding (0.1-1.0%). Paragraph 155 of the NPPF states that *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'*

Furthermore, the NPPF states that *"a site-specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1; all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3, or in an area within Flood Zone 1 which has critical drainage problems (as notified to the local planning authority by the Environment Agency); and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding"* The applicants have submitted a site specific flood risk assessment and included a Surface Water Management Plan (SWMP).

The Phase 1 application (ref: 18/1053/FUL) was initially submitted without an FRA and therefore the EA's raised an objection on that basis. Two subsequent FRA's were produced and submitted by the applicant. The revised FRA, dated 30<sup>th</sup> November 2018, was submitted and the applicant's agent has liaised with the Environment Agency's (EA's) Partnership and Strategic Overview Officer within their Flood Risk Management team, to discuss the flood risk at the application site.

The developers reviewed the EAs' output modelling from the 2011 Exeter 2D Hydraulic Model. The 2011 model presents the best available flood mapping for the catchment and identifies the site as being entirely within the low risk Flood Zone 1, as land assessed as having greater than 1 in 1,000 annual probability of river flooding (<0.1%). As such, EA have retracted their initial objection and stated that *'the FRA has correctly assessed the flood risk and applied suitable mitigation measures for the proposed development. The FRA has also correctly identify that the site is technically in Flood Zone 1. Our Flood Zone 2 maps include any historical flood outline regardless of the size of the flood or changes to the landscape/river corridor. If we ignore the 1960 flood outline, and use the best available modelling this site is at little or low river flood risk.'* Following submission of the revised Flood Risk Assessment (FRA) the EA removed their original objection, on this basis.

## **Ecology/ Biodiversity**

The NPPF sets out government policy on biodiversity in planning decisions. Chapter 15, paragraph 175 requires that Local Planning authorities encourage opportunities to incorporate biodiversity improvements in and around developments when determining planning applications.

Exeter's Local Planning Policy, CP16, supporting text states, *'Development that may affect protected species will be determined in accordance with the relevant legislation. Ecological Surveys will be required to ensure the protection of species identified'*.

The site is adjacent to 'Greenspace B' of the Exeter Biodiversity Reference Map (2011). Whilst these areas are less wildlife-rich they still hold significant green infrastructure value. Greenspace B make an important contribution to the ecological networks in the City. Such networks are afforded protection in Planning Policy Statement 9 (paragraph 12) which recognises that they can provide routes or stepping stones for the migration, dispersal and genetic exchange of species in the wider environment.

The Preliminary Ecological Appraisal noted potential for protected species to be using the site, including bats and great crested newts. Table 8 of the Appraisal set out known and potential ecological constraints to the development, derived from the desk study and the extended Phase 1 habitat survey, including designated sites, habitats and protected/notable species. The applicant's ecology consultants conducted further on-site survey work and concluded the following:

- The site has low/negligible potential for reptiles. A habitat management strategy for reptiles is recommended to discourage reptile species using the site.
- Measures to enhance the site for wildlife in accordance with the National Planning Policy Framework (NPPF) are also provided and include the provision of new bird nesting opportunities.
- A further assessment of ecological impacts and proposals for appropriate mitigation will be undertaken on completion of the recommended further survey work.

Officers consider the mitigation measures proposed to be acceptable and will apply a condition to secure such measures.

#### Habitat Mitigation

SSSIs (Sites of Special Scientific Interest) are protected under the Wildlife and Countryside Act, 1981 (as amended) and the Countryside Rights of Way Act 2000. SACs (Special Areas of Conservation) and SPAs (Special Protection Areas) are strictly protected through European legislation (Conservation of Habitats and Species Regulations, 2017). Nationally and internationally designated sites are also afforded protection through the NPPF.

The development is for C3 residential dwellings, which are located within 10 kilometres of the Exe Estuary Special Protection Area, therefore 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.

#### **Affordable Housing**

Policy H6 of the Local Plan states, "*Housing proposals on sites capable of yielding 15 or more dwellings or on sites of 0.5 ha or more (irrespective of the number of dwellings proposed) should include provision for subsidised rented, shared ownership or low cost market housing to contribute to the city wide target for affordable housing.*"

Core Strategy Policy CP7 states, "*On sites capable of providing 3 or more additional dwellings (irrespective of the number of dwellings proposed) 35% of the total housing provision should be made available as affordable housing for households whose housing needs are not met by the market. At least 70% of the affordable housing should be provided as social rented housing.*"

*The overall percentage of affordable housing and the tenure split will be subject to considerations of viability and feasibility. Where it is not possible for viability reasons to provide the full requirement of social rented housing affordable rent provision would be considered let as far as possible at social rented levels. The remaining balance of the affordable housing should be delivered as intermediate affordable housing.”*

As the property has been vacant for at least three years, Vacant Building Credit has been calculated as follows:

Existing floor space	1655
Proposed floor space (45 units)	<b>2197.03</b>
Proposed minus existing (increase)	<b>542.03</b>
Increase as a percentage of overall	<b>24.67%</b>
Number units	<b>22</b>
35% AH (without credit)	<b>7.7</b>
<b>AH requirement with credit</b>	<b>1.8997</b>

Based on the calculations above, the Council will require 2 social rented dwellings to be delivered on site. The applicant has agreed to provide two units on site for affordable social rented units. In the event that the units are not adopted by one of the Council’s Registered Providers, then as an exception, in accordance with the Council’s Affordable Housing SPD, an appropriate commuted sum will be agreed. The requirement to provide affordable housing will be secured through the s106 legal agreement.

**CIL**

In Exeter, CIL is charged on residential development, student housing, and retail development outside the city centre. The Council is aware that the existing building has been vacant since 2015, therefore the entire development for both applications (Ref: 18/1053/FUL and Ref: 18/1275/FUL) will be CIL Liable.

**S106**

Heads of Terms:

1. Pedestrian footpath;  
To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and policy CP9 of the ECC Core Strategy, no part of the development hereby approved shall be commenced until details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the “Drawing Number 17447 Rev E”, have been submitted to and approved in writing by the Local Planning Authority.

2. Management Scheme;

To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime, the developer must provide details of a Management Scheme. The Scheme shall be submitted and approved in writing by the Local Planning Authority. The Scheme must include details of a parking management scheme and the management and maintenance of the communal areas, including the communal landscaped gardens, car and cycle parking areas, and bin stores. The scheme must be implemented upon first occupation.

3. Affordable Housing;

A

The Section 106 Agreement will contain some or all of these terms, subject to site by site

- negotiations: define the amount of affordable housing or, in the case of full permission, specify specific units and detail the breakdown between different tenures and amount of wheelchair accessible housing, all in accordance with Policy CP7;
- require the affordable housing to comprise a representative mixture of dwelling types and sizes, to be integrated with and indistinguishable from market housing;
- set a timescale for the affordable housing to be provided, usually that it shall be available for occupation by the time a percentage of the market housing is available;
- include a mechanism for selecting an RP, unless another approach has been agreed;
- limit the rent and outgoings which can be charged to occupants and the price at which an initial share can be sold under a shared ownership arrangement;
- include a mechanism for limiting and selecting the occupants of the affordable housing, which will require supplementary agreements to entered into as follows:
  - where the Council provides grant aid, the RP or other provider will be required to enter into a nomination agreement;
  - in the case of a provider that is not an RP, or in other special cases (e.g. an unusually large grant payment), the Council will require additional security for repayment of grant on disposal of the land;
  - where the provider is not an RP, the S106 Agreement will include provisions governing letting and management arrangements.
- provide for the housing to remain affordable in perpetuity, subject to:
  - any statutory right to acquire, buy or 'staircase';
  - a mortgagee in possession clause, where the affordable housing is transferred to an RP.

B

The applicant will be required to pay the Council's reasonable legal costs in connection with the Agreement. The Council's costs in connection with any related Agreement (e.g. a nomination agreement) shall be paid by the applicant, RP or other provider, depending upon which of those parties is involved in negotiating the terms of that Agreement.

C

Where the Council has refused an application which, if allowed, would have been subject to a requirement for affordable housing, it will endeavour to negotiate a Section 106

Agreement on a 'without prejudice' basis, to take effect in the event that an appeal is allowed.

D

[Omitted as not considered relevant to this application]

E

The agreement will require the applicant to notify the Assistant Director of Housing and Contracts of the anticipated date(s) when the affordable housing will be available for occupation, a specified period(s) in advance.

F

Section 106 Agreements will include mechanisms to record when key stages are reached in the development and requirements are triggered.

G

The Council will use its enforcement powers if a Section 106 Agreement is not complied with. In addition, the fact that a development is taking place despite non-compliance with a response to searches from Section 106 Agreement will be included as a standard prospective purchasers.

## **RECOMMENDATION**

Concerns relating to material planning considerations have been addressed through revisions to the scheme or conditions on the decision notice.

For all the reasons considered above, and weighing up the development plan policies and proposals, and other material considerations, it is considered that the proposals would be appropriate. Accordingly, these applications are recommended for grant.

Approve Application 18/1053/FUL subject to completion of a Section 106 agreement to secure pedestrian footpath, Management Scheme, and Affordable Housing subject to the conditions listed below.

Approve Application 18/1275/FUL subject to completion of a Section 106 agreement to secure pedestrian footpath, Management Scheme, and Affordable Housing subject to the conditions listed below.

## **CONDITIONS**

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

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

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 25<sup>th</sup> February 2019 (including dwg. nos. 17447 SD (0) 001, 002, 003, 004, 005, 01 F, 02, 03 D, 10, 11, 20 ) as modified by other conditions of this consent.

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

3) Prior to above ground works, samples of the materials it is intended to use externally in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Wherever possible external doors and accessible windows should comply with the Secured by Design (SBD) standards as set out in Secured by Design Homes 2016. 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 and to reduce the fear of and opportunities for crime.

4) 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: To ensure the protection of the trees during the carrying out of the development.

5) Pre-commencement condition: The demolition of the existing dwelling on site with a bat roost as identified in the Bat & Protected Species Survey, Bat Emergence Survey shall not in any circumstances commence unless the Local Planning Authority has been provided with either: A copy of the relevant wildlife licence issued by Natural England authorising the demolition of the building and destruction of the roost; or, A statement in writing from Natural England to the effect that it does not consider that demolition of the building will require a licence.

Reason for pre commencement condition: To ensure that no bat roost is damaged or destroyed without the appropriate licence being obtained in accordance with the Conservation of Habitat and Species Regulations 2010 as amended. These details are required pre commencement as specified to ensure that bats are not killed or otherwise harmed by building operations.

6) Pre commencement condition: No works on the demolition of the existing dwelling on site shall commence until details of the replacement bat roost provisions have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of roost provisions and their location on the site. Demolition works shall not commence until the bat roost provision designed to compensate for the loss of the existing roost has been provided on site as approved. The bat roost provisions designed to provide an enhancement on site shall be provided as approved.

Reason for pre-commencement condition: In the interests of biodiversity and to accord with the recommendations of the Bat and Protected Species Survey, and Bat Emergence Survey. These details are required pre-commencement as specified to ensure that they provide satisfactory compensation for the loss of the existing roost and enhancement in accordance with the National Planning Policy Framework.

7) No individual dwelling hereby approved shall be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with details that have been approved by the Local Planning Authority as part of this permission. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.

Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.

8) Pre-commencement condition: Prior to commencement a detailed assessment of the condition of the existing surface water drainage system must be undertaken, the results of which must be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Where the assessment shows that works are required to be undertaken to the existing surface water drainage network, a schedule of works must be submitted to the LPA with a timetable for implementation. On completion of the repair works, a verification report must be submitted and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority, prior to occupation

Reason for pre-commencement condition: To ensure that the existing surface water drainage system is of a satisfactory condition to continue receiving surface water runoff generated from the proposed development.

9) If, during demolition/ development, contamination not previously identified is found to be present at the site then the Local Authority shall be notified as soon as practicable and no further development (unless otherwise agreed in writing with the Local Planning Authority), shall be carried out until the developer has submitted an investigation and risk assessment, and where necessary a remediation strategy and verification plan, detailing how this unsuspected contamination shall be dealt with. Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy, shall be submitted to and approved by the Local Planning Authority.

10) Pre-commencement condition: Details of gas protection measures should be submitted to and approved, in writing, by the Local Planning Authority. The building(s) shall not be occupied until the approved measures have been implemented and this has been confirmed with the Local Planning Authority.

Reason for pre-commencement condition: In the interest of the public safety and amenity.

11) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall take place until a Demolition Construction Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for and not be limited to:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) 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.

- i) No burning on site during construction or site preparation works.
- j) Measures to minimise noise nuisance to neighbours from plant and machinery.
- k) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- l) Construction traffic and deliveries must avoid school drop off/pick up hours
- m) No driven piling without prior consent from the LPA.

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

Reason for pre-commencement condition: In the interest of the public amenity, highway safety, the environment of the site and surrounding areas.

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 waste generated during construction is managed sustainably

13) Prior to occupation, the vehicular access, on site turning areas and vehicular parking spaces as indicated on Drawing Number 17447 Rev E, must be implemented for 19 cars to be parked and for vehicles to turn, so that they may enter and leave the site in forward gear, in accordance with details that have been submitted as part of this application, and thereafter retained and maintained for that purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide adequate visibility to achieve a safe and suitable access, in accordance with paragraph 108 of the National Planning Policy Framework.

14) Prior to occupation of the development, details of secure cycle parking provision and bin stores which show how the proposal responds to Secure by Design principles shall be submitted to and agreed in writing by the Local Planning Authority. The cycle parking and bin stores shall be implemented in accordance with the approved details and thereafter retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide adequate facilities for sustainable transport and to reduce the fear of and opportunities for crime.

15) Pre-commencement condition: Prior to commencement details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the Drawing Number 17447 Rev E, have been submitted to and approved in writing by the Local Planning Authority.

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

16) Prior to occupation a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of a 'travel pack' which will be produced for each dwelling, providing information of walking and cycling routes and facilities,

and public transport routes and timetables, car sharing schemes, and the location of local and central shopping and leisure facilities. The approved travel plan measures must be implemented to the satisfaction of the Local Planning Authority. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority thereafter.

Reason: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraphs 111 and 105 of the NPPF

17) Prior to occupation, above ground works, a detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority for approval in writing. Such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. Furthermore, the scheme shall show how it accords with Secure by Design Principles, in particular with regard to boundary screen walls and fences. The landscaping shall thereafter be implemented in accordance with the approved scheme and programme.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime.

18) Prior to occupation, details of external lighting on the site and on the building hereby permitted shall be 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 reduce the fear of and opportunities for crime and protect the amenities of the area and wildlife.

## **INFORMATIVES**

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

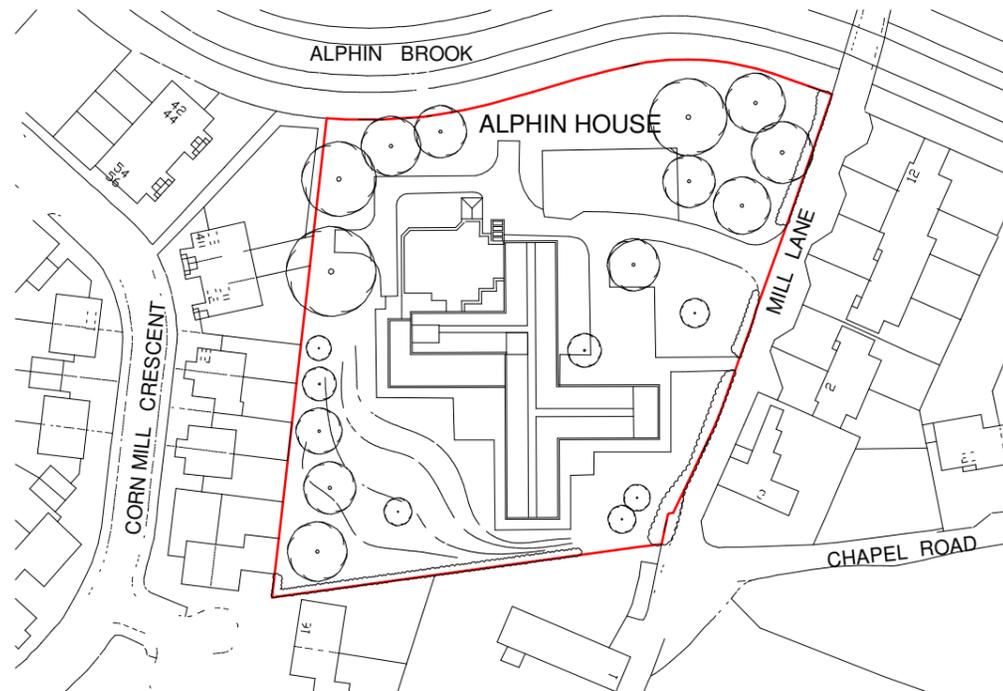
2) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development.

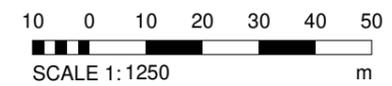
Accordingly your attention is drawn to the need to complete and submit an '**Assumption of Liability**' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.

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).

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Status: **PLANNING APPLICATION**

Title: **LOCATION PLAN**

Drg No: **17447** ■ **EX** ■ **(0) 001**



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# Agenda Item 7

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

**APPLICATION NO:** 18/1275/FUL  
**APPLICANT:** Botree GRP Ltd  
**PROPOSAL:** Change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, construction of 3 terraced houses, associated car and cycle parking, private amenity space and public footpath.  
**LOCATION:** Alphin House  
Mill Lane  
Alphington  
Exeter  
EX2 8SG  
**REGISTRATION DATE:** 28.08.2018

This report relates to two simultaneous applications which have been submitted for the same site. Application ref: 18/1275/FUL includes an additional 3 terraced units which are positioned within the flood zone outline and further intensifies the development, therefore the developer wanted to de-risk the proposal by setting this as separate applications as follows:

18/1053/FUL Change of use of former care home to provide 19 1 and 2-bedroom residential units, partial demolition including existing single storey side conservatory and redevelopment of a two storey side extension, 19 car parking spaces and 36 cycle parking spaces, private amenity space and public footpath.

18/1275/FUL Change of use of former care home to provide 19 residential units, partial demolition and redevelopment of a two storey side extension, construction of 3 terraced houses, associated car and cycle parking, private amenity space and public footpath.

## **SITE HISTORY**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
04/0996/CTY	Ground floor extension on north/west elevation	RNO	
03/1199/CTY	Two storey extension on east elevation	RNO	
02/1856/CTY	Provision of 14 car parking spaces on north of site	RNO	
96/0847/CTY	Single storey extension to provide day centre and ancillary external works including additional parking, turning and service access	RNO	

**DESCRIPTION OF SITE/PROPOSAL**

Alphin House is a 1970's building, constructed as an elderly persons' home and sheltered accommodation, previously owned and operated by the County. The existing building is a part single part two-storey building, which has had an extension and conservatory added (ref: 04/0996/CTY). The building is surrounded by landscaping and some mature trees. A group tree preservation order has been placed on the site in order to protect the existing ecology. Alphin House is bound by Mill Lane to the east and Alphin Brook to the north of the site, located in a predominantly residential area, with the rear gardens of neighbouring properties abutting the boundary on the west. Alphington Primary School is further south-east of the site, while local shops, amenities and the city centre are a short walk or bicycle ride away. There are 25 existing car parking spaces and there is existing access to the site via Mill Lane.

**SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT**

Design and Access Statement  
Preliminary Ecological Appraisal Report  
Phase 2 Ecological Survey Report  
Summary Ecological Works Undertaken  
Arboricultural Appraisal Desk Top Study  
Arboricultural Impact Assessment  
Arboricultural Protection Plan  
Tree Constraints Plan  
Contaminated Land Desk Study  
Flood Risk Assessment (November, 2018)

**REPRESENTATIONS**

27<sup>th</sup> July 2018 and 19<sup>th</sup> February 2019

Twenty-three (23) letters were sent out to neighbours and interested parties

The Council received twenty-one (21) responses; one (1) comment and twenty (20) letters of objection raised the following concerns which are material planning considerations:

- Highway safety for pedestrians and cyclists (children and families going to and from Alphington Primary School and West Exe);
- No walkways/pavements between Mandrake Road and the bridge
- Parking, no vehicle passing places except in the driveways of nos. 3 and 5 Mill Lane
- Traffic generation during and after construction
- Impact on small bridge due to construction traffic
- Incremental increase in traffic and parking on football and cricket matches at the adjacent playing field
- Turning of service vehicles
- Impact on existing drainage and sewage
- Overdevelopment
- Landscaping/Visual amenity
- Character and identity of 'rural', 'village'

- Use

Chairman, Alphington Village Forum – difficult and dangerous access; Mill lane is narrow with few pavements; too few parking spaces; adds to peak traffic congestion at Church Road; Use as age restricted to over 70's or nursing home preferred.

### **CONSULTATIONS**

Highways – Raised no objections, recommended legal obligations and conditions for further details to be submitted for:

- vehicle access, on-site parking and turning areas
- the proposed footway
- cycle parking
- construction method statement
- Framework Travel Plan/Car Park Management Plan
- Section 38/278 licence

Environment Agency – *'The FRA has correctly assessed the flood risk and applied suitable mitigation measures for the proposed development. The FRA has also correctly identify that the site is technically in Flood Zone 1. Our Flood Zone 2 maps include any historical flood outline regardless of the size of the flood or changes to the landscape/river corridor. If we ignore the 1960 flood outline, and use the best available modelling this site is at little or low river flood risk.'*  
As such EA removed their original objection on the application.

DCC Flood and coastal Management – *'we have no in-principle objection to the above planning application'* subject to condition relating to the surface water drainage management system, requiring the applicant to inspect and report on the existing drainage network and make improvements where necessary.

Housing – raised no objection subject a section 106 legal agreement that the applicant deliver two (2) social rented units on site, or the equivalent.

Devon and Cornwall Police – Raised no objection and offered recommendations relating to access and movement, surveillance, activity, physical protection, management and maintenance, which have been responded to by revisions to the application received by Officers, and/or will be conditions as part of further details to be submitted with the application such as lighting, materials, management and maintenance.

Aborigiculture – Raised no objections

Devon Garden Trust – No response received

### **PLANNING POLICIES/POLICY GUIDANCE**

#### **Central Government Guidance**

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

#### **Exeter Local Development Framework Core Strategy**

CP3 – Housing

CP4 – Density  
CP9 – Transport  
CP17 – Design and local distinctiveness

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

DG1 – Objectives of Urban Design  
DG4 – Residential Layout and Amenity  
DG7 – Crime Prevention and Safety  
T3 – Encouraging Use of Sustainable Modes

#### **Exeter City Council Supplementary Planning Document**

Residential Design SPD (Sept 2010)  
Sustainable Transport SPD  
SW Exeter Development Brief (2014)

#### **Exeter City Council Development Delivery DPD**

DD13 – Residential Amenity  
DD25 – Design Principles  
DD26 – Designing out Crime

### **OBSERVATIONS**

#### **Principle of the development**

The use of the site is a nursing home which was operated as such since 1970s when it was built, categorised as a 'Community Service' in the Local Plan.

The 'Community Services' objectives set out in chapter 8, of the Council's Local Plan aims;

- *to protect and enhance existing community facilities*
- *to promote the provision of new community facilities*

Core Strategy Policy CS6 states that, "*development that would cause harm to the provision of community space in an area will not be permitted.*" Furthermore Policy CP10 of the Core Strategy states, "*Facilities that meet Exeter's community, social, health, welfare, education, spiritual, cultural, leisure and recreation needs will be protected.*"

Emerging Development Delivery Development Plan Document Policy DD23 states:

*"All land or buildings in community use, or allocated for community use, will be protected. Any loss of land or buildings in community use will only be permitted where:*

- (a) there is no reasonable prospect of the existing use continuing on a viable basis, nor securing a satisfactory viable alternative community use;*
- (b) or, there are adequate facilities in the area to meet demand; or,*
- (c) the community will benefit from the provision of replacement facilities of equivalent or better quantity and quality in a suitable location provided to a timescale that avoids any significant break in use."*

According to a report by Devon County Council on the Alphin House, residential care home, the viability assessment for the future of the home concluded that the building failed to meet current care standards and in general terms was not fit for purpose as a care or community building (Consultation on the future of Alphin House Residential Care Home, Exeter DCC, 2014). Devon County Council place 90% of their residential clients in the independent sector. In their 2014 report, DCC states that "*in Exeter there is a new 68 bed care home registered for Residential*

*and Nursing care, including Dementia services opening during the summer and we will be discussing any opportunities arising from this development with this provider. There is also planning for 2 further 60 bed homes in Exeter.”* In 2017, Devon County Council sought offers to purchase Alphin House for which the client submitted a successful offer. At the time of sale the site had not provided any community use for approximately 3 years.

The Core Strategy also identifies that Exeter has an imbalance between housing supply and demand, and therefore to meet this demand the council prioritises maximising the use of previously developed land. Policy CP3 identifies that 12,000 new homes are needed in the city by 2026 and this proposal seeks to provide twenty-two (22) new homes including Affordable Housing.

For the reasons outlined above it is considered that for the reasons set out above, on balance the loss of the community facility is acceptable on the basis that from the information provided at the time of the application subsections a-c of DPD Policy DD23 have been met and the alternative use as residential development contributes to the Council's priority in providing 12,000 new homes by 2026, and Officers therefore consider that this change of use is acceptable.

### **Character and Appearance**

The proposal is for the refurbishment and change of use of an existing building into 19 residential units and three standalone terraces. The conversion will require the demolition of the existing side extension and conservatory on the north elevation and redevelopment of a two storey extension in its place, extending no further than the existing structure. Part of the single storey structure will also be demolished on the west elevation, allowing the existing private access road to continue to the south side of the building. The access road will connect to the existing hardsurfaced area, south of the site which will be retained for parking. Individual units are accessed from the perimeter of the building, providing passive surveillance. In terms of amenity space, there is an internal courtyard/amenity area with private access from units 1-4 and 6, and units 17-19. All units, including the three terraces, will have access to the 500sqm of communal residential amenity space which surrounds the site.

For reasons outlined above and considering its design, siting, scale, massing, layout and subject to materials to be conditioned, the proposals are acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policy DG1 and DG4 of the adopted Local Plan (2011) and the Residential Design Guide SPD.

### **Residential Amenity**

The proposal is for a conversion of an existing building previously in use as a nursing home, into residential maisonettes, and three associated terraced units. The proposed conversion (ref: 18/1053/FUL) is to create eighteen (18), 2-bedroom units and one 1-bedroom unit. The phase 2 development is for the conversion and redevelopment as well as the provision of an additional three terraced units ref: 18/1275/FUL).

The Government published its Technical Housing Standards - nationally described spaces standards (2015), which deals with internal space within new dwellings and the following is relevant to this proposal:

Number of bedrooms (b)	Number of bed spaces (persons)	2 storey dwellings	Built-in storage
1b	2p	50	1.5
2b	3p	70	2.0
	4p	79	
3b	4p	84	2.5
	5p	93	
	6p	102	

Extract Technical Housing Standards - nationally described spaces standards (2015)

The standards also require a minimum 11.5sqm for a double bedroom and 7.5sqm for a single bedroom. Two of the proposed units created as part of the conversion are marginally below the national described space standards by 6sqm (unit 10) and 1sqm (unit 12), however the bedrooms for these units exceed the national space standards for the individual room sizes. Furthermore, as many as fifteen units exceed the overall space standards for their GIA, all units accommodate an acceptable level of storage space, therefore on balance it is considered that the residential amenity where concerns internal space standards is acceptable.

#### Outdoor amenity space

The Council's Residential Design Guide SPD requires that a minimum of 20sqm per flat is provided. The requirement is therefore 380sqm of amenity space, however the applicant has exceeded this and provided 500sqm of communal garden space.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any future or neighbouring occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

#### **Highways**

Chapter 9 of the NPPF, Promoting Sustainable Transport, *Considering development proposals* states;

*108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

*(a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*(b) safe and suitable access to the site can be achieved for all users; and*

*(c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

*109. 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.

110. Within this context, applications for development should:

(a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

(b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

(c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

(d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

(e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

111. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

Local Plan Policy paragraph 9.42 states '*Reducing the level of parking provision in new development is essential in order to promote sustainable travel choices.*' Policy T10 schedule 3, provides for maximum parking standards outside the pedestrian priority zone as 1.5 spaces per dwelling, which is echoed in the Residential Design Guide SPD. However, this figure is a 'maxima' which allows for a lower provision where appropriate and in some cases 'car free' development. Furthermore, NPPF Chapter 9, para. 106 states '*Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport ...*' Therefore it should be noted that the parking standard quoted from the Local Plan and the SPDs is not a minimum, and in this instance a lower provision is considered acceptable for the following reasons:

The Core Strategy further supports this where paragraph 2.26 states '*Transport is responsible for 22% of Exeter's CO2 emissions. Reductions from the transport sector will be needed as part of the transition to low carbon economy.*' Objective 5 of the Core Strategy is to achieve a step change in the use of sustainable transport and aims to '*Minimise the need to travel and reduce the dependence on the car...*'

The application site is a brownfield site and is in a sustainable location. There are buses running along Church Road, it is located adjacent to an "advisory cycle route" and it is within close walking/cycling distance to the City Centre, schools and key employments hubs such as Marsh Barton. A transport assessment has been submitted with the application which has been reviewed by DCC Highways. A number of objections have been received from local residents

concerning highways issues including parking, pedestrian and cycle safety, and general infrastructure capacity issues.

The Highways Officer considered the resultant vehicle trip rates and associated traffic generation for both proposals which indicate that there will be a net increase 8 two-way trips in the AM Peak and a net increase of 5 two-way trips on the PM Peak. It is noted that this quantum of traffic generated at the proposed development is double to the previous use.

However, notwithstanding the level of congestion during school pick up/drop off periods which, Highways Officers are aware is experienced at Mill Lane/Mandrake Road, this situation is not dissimilar to roads serving schools around Exeter during the AM Peak. It should be noted that there will be very little interaction of traffic generated by the development during school pick up/drop off in the afternoon peak and no interaction at all in the PM peak.

DCC Highways Officer advises that a school travel plan can be either updated or produced – which can introduce a modal shift towards helping reduce vehicular trips. This would go some way in alleviating some of the congestion associated with pick up/drop off periods.

Furthermore, the applicant's Transport Assessment made reference to Personal Injury Accident (PIA) data which was obtained from Devon County Council, covering Mill Lane and approximately 100m either side of the junction of Mill Lane and Church Road. The data indicates that no incidents have occurred on Mill Lane or in the vicinity of the site access.

As such, given the above the vehicular impact of the development cannot be deemed as severe, Officers consider that the development is therefore acceptable with this regard.

#### Access

Vehicular access is proposed via an access off Mill Lane which is an existing vehicular access. Furthermore the actual vehicular access from the development onto Mill Lane has sufficient visibility requirements (2.4m x 25m) for a slow speed environment and therefore, is acceptable.

Mill Lane is primarily shared space between Mandrake Road and the proposed site. Footways are present between Mandrake Road and Church Road. Neighbours have objected on the ground that there will be increased safety risk to pedestrians using Mill Lane, as a result of traffic generated by the development. The development will create an increase in traffic on Mill Lane and to mitigate this, the applicant is providing a 2m wide footway within the red line boundary, segregating pedestrians from vehicles. This is shown indicatively on Drawing Number 17447 Rev E, further details of which will be secured through a condition and s106.

DCC Highways and ECC Planning and Property Officers have discussed the option of providing a footway on Alphington Playing fields for further pedestrian/vehicular segregation. However this is outside the redline boundary of this planning application and, a shared space philosophy approach is considered acceptable given the limited number of vehicles associated with the development in question.

The applicant is advised that parts of the indicated area are HMPE and therefore permission must be obtained prior to undertaking any work on the highway. The applicant will therefore be required to enter into a Section 38/278 with the Highways authority which will be secured through the s106.

The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and

Part 9 of the National Planning Policy Framework. The means of access arrangements are considered acceptable and maintain highway safety standards.

### Car Parking

There is existing parking on site. The previous planning application ref: 96/0847/26, granted permission which included 6 parking spaces and turning facilities, while under ref: 02/1856/CTY a further 14 parking spaces were approved. Historic plans for the site also show that there are 5 existing parking spaces on the forecourt facing Mill Lane, prior to the 2002 application. Therefore there are a total of twenty-five (25) existing car parking spaces which served the 35-bed nursing home, staff and visitors.

The Phase 1 development which seeks the conversion of the nursing home in to 19, 1-bed and 2-bed units, proposes 1 parking space per unit. In addition, the three terraced units, forming the Phase 2 development, will have 1 parking space each. As such twenty-two (22) parking bays will be proposed to serve both phases of the development. This figure is also below the maximum standard set in the ECC Residential Design Guide and Sustainable Transport SPDs and Exeter's Local Plan. Furthermore, the development is located in a sustainable location, within walking distance to the local primary school, local shops and other amenities, there are four bus routes within 5 minutes' walk, providing services to and from the city centre and further afield, with services as regular as 10 minute intervals, in addition St Thomas train station is a short bicycle ride away. Therefore, considering the development is in a highly sustainable location, and the number of parking spaces are similar to that already existing, the proposed off street parking is in line with Local and National Policies relating to parking and sustainable transport policies, relating to reducing the need to travel and dependency on the private car.

In comments provided by DCC Highways the Officer concurs that 'given the quantum [of proposed parking] just falls short of the SPD and the sustainable nature of the site, the number of spaces provided is acceptable. However, it might be in the interests of the applicant to implement a car park management plan to prevent vehicles (relating to school pick up/drop off traffic) parking within the development and to prevent vehicles relating to the development parking on nearby residential roads i.e. Mill Lane. Therefore a condition will be attached to any decision notice which will require that a 'Framework Travel Plan/Car Park Management Plan' will be submitted for approval by the local Planning Authority, which is in line with paragraph 111 of NPPF chapter 9 which requires that, *'all developments that will generate significant amounts of movement should be required to provide a travel plan.'*

### Cycle Parking

Exeter's Local Plan Policy T3 requires that *'b) suitable parking provision is provided in accordance with the standards set out in schedule 2.'* Schedule 2 requires 1 cycle parking space per 1-2bed dwelling and 2 spaces per 3 or 3+ bed dwelling. Core Policy CP9 requires *improvements to facilities for pedestrians and cyclists*, and the City's Sustainable Transport SPD further states this in chapter 5 Table 2.

The applicant has provide details of secure, sheltered cycle parking for 32 bicycles located at the front of the site adjacent to Mill Lane. DCC Highways Officer has stated that *'cycle parking standards should be exceeded...'* The proposed provision for cycle parking is therefore considered acceptable for the entire site, within the communal facility, the number of spaces exceeds the minimum standards for all units, with ample additional spaces for visitors.

## **Flood Risk**

The site is partially located within Flood Zone 2 according to the EA's flood mapping data and is therefore categorised as land assessed as having between 1 in 100 and 1 in 1,000 annual probability of river flooding (0.1-1.0%). Paragraph 155 of the NPPF states that *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'*

Furthermore, the NPPF states that *"a site-specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1; all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3, or in an area within Flood Zone 1 which has critical drainage problems (as notified to the local planning authority by the Environment Agency); and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding"* The applicants have submitted a site specific flood risk assessment and included a Surface Water Management Plan (SWMP).

The Phase 1 application (ref: 18/1053/FUL) was initially submitted without an FRA and therefore the EA's raised an objection on that basis. Two subsequent FRA's were produced and submitted by the applicant. The revised FRA, dated 30<sup>th</sup> November 2018, was submitted and the applicant's agent has liaised with the Environment Agency's (EA's) Partnership and Strategic Overview Officer within their Flood Risk Management team, to discuss the flood risk at the application site.

The developers reviewed the EAs' output modelling from the 2011 Exeter 2D Hydraulic Model. The 2011 model presents the best available flood mapping for the catchment and identifies the site as being entirely within the low risk Flood Zone 1, as land assessed as having greater than 1 in 1,000 annual probability of river flooding (<0.1%). As such, EA have retracted their initial objection and stated that *'the FRA has correctly assessed the flood risk and applied suitable mitigation measures for the proposed development. The FRA has also correctly identify that the site is technically in Flood Zone 1. Our Flood Zone 2 maps include any historical flood outline regardless of the size of the flood or changes to the landscape/river corridor. If we ignore the 1960 flood outline, and use the best available modelling this site is at little or low river flood risk.'* Following submission of the revised Flood Risk Assessment (FRA) the EA removed their original objection, on this basis.

## **Ecology/ Biodiversity**

The NPPF sets out government policy on biodiversity in planning decisions. Chapter 15, paragraph 175 requires that Local Planning authorities encouraged opportunities to incorporate biodiversity improvements in and around developments when determining planning applications.

Exeter's Local Planning Policy, CP16, supporting text states, *'Development that may affect protected species will be determined in accordance with the relevant legislation. Ecological Surveys will be required to ensure the protection of species identified'*.

The site is adjacent to 'Greenspace B' of the Exeter Biodiversity Reference Map (2011). Whilst these areas are less wildlife-rich they still hold significant green infrastructure value. Greenspace B make an important contribution to the ecological networks in the City. Such networks are afforded protection in Planning Policy Statement 9 (paragraph 12) which recognises that they can provide routes or stepping stones for the migration, dispersal and genetic exchange of species in the wider environment.

The Preliminary Ecological Appraisal noted potential for protected species to be using the site, including bats and great crested newts. Table 8 of the Appraisal set out known and potential ecological constraints to the development, derived from the desk study and the extended Phase 1 habitat survey, including designated sites, habitats and protected/notable species. The applicant's ecology consultants conducted further on-site survey work and concluded the following:

- The site has low/negligible potential for reptiles. A habitat management strategy for reptiles is recommended to discourage reptile species using the site.
- Measures to enhance the site for wildlife in accordance with the National Planning Policy Framework (NPPF) are also provided and include the provision of new bird nesting opportunities.
- A further assessment of ecological impacts and proposals for appropriate mitigation will be undertaken on completion of the recommended further survey work.

Officers consider the mitigation measures proposed to be acceptable and will apply a condition to secure such measures.

#### Habitat Mitigation

SSSIs (Sites of Special Scientific Interest) are protected under the Wildlife and Countryside Act, 1981 (as amended) and the Countryside Rights of Way Act 2000. SACs (Special Areas of Conservation) and SPAs (Special Protection Areas) are strictly protected through European legislation (Conservation of Habitats and Species Regulations, 2017). Nationally and internationally designated sites are also afforded protection through the NPPF.

The development is for C3 residential dwellings, which are located within 10 kilometres of the Exe Estuary Special Protection Area, therefore 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.

#### **Affordable Housing**

Policy H6 of the Local Plan states, “Housing proposals on sites capable of yielding 15 or more dwellings or on sites of 0.5 ha or more (irrespective of the number of dwellings proposed) should include provision for subsidised rented, shared ownership or low cost market housing to contribute to the city wide target for affordable housing.”

Core Strategy Policy CP7 states, “On sites capable of providing 3 or more additional dwellings (irrespective of the number of dwellings proposed) 35% of the total housing provision should be made available as affordable housing for households whose housing needs are not met by the market. At least 70% of the affordable housing should be provided as social rented housing. The overall percentage of affordable housing and the tenure split will be subject to considerations of viability and feasibility. Where it is not possible for viability reasons to provide the full requirement of social rented housing affordable rent provision would be considered let as far as possible at social rented levels. The remaining balance of the affordable housing should be delivered as intermediate affordable housing.”

As the property has been vacant for at least three years, Vacant Building Credit has been calculated as follows:

Existing floor space	1655
Proposed floor space (45 units)	<b>2197.03</b>
Proposed minus existing (increase)	<b>542.03</b>
Increase as a percentage of overall	<b>24.67%</b>
Number units	<b>22</b>
35% AH (without credit)	<b>7.7</b>
<b>AH requirement with credit</b>	<b>1.8997</b>

Based on the calculations above, the Council will require 2 social rented dwellings to be delivered on site. The applicant has agreed to provide two units on site for affordable social rented units. In the event that the units are not adopted by one of the Council’s Registered Providers, then as an exception, in accordance with the Council’s Affordable Housing SPD, an appropriate commuted sum will be agreed. The requirement to provide affordable housing will be secured through the s106 legal agreement.

### **CIL**

In Exeter, CIL is charged on residential development, student housing, and retail development outside the city centre. The Council is aware that the existing building has been vacant since 2015, therefore the entire development for both applications (Ref: 18/1053/FUL and Ref: 18/1275/FUL) will be CIL Liable.

### **S106**

Heads of Terms:

1. Pedestrian footpath;

To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and policy CP9 of the ECC Core Strategy, no part of the development hereby approved shall be commenced until details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the "Drawing Number 17447 RevE", have been submitted to and approved in writing by the Local Planning Authority.

2. Management Scheme;

To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime, the developer must provide details of a Management Scheme. The Scheme shall be submitted and approved in writing by the Local Planning Authority. The Scheme must include details of a parking management scheme and the management and maintenance of the communal areas, including the communal landscaped gardens, car and cycle parking areas, and bin stores. The scheme must be implemented upon first occupation.

3. Affordable Housing;

A

The Section 106 Agreement will contain some or all of these terms, subject to site by site

- negotiations: define the amount of affordable housing or, in the case of full permission, specify specific units and detail the breakdown between different tenures and amount of wheelchair accessible housing, all in accordance with Policy CP7;
- require the affordable housing to comprise a representative mixture of dwelling types and sizes, to be integrated with and indistinguishable from market housing;
- set a timescale for the affordable housing to be provided, usually that it shall be available for occupation by the time a percentage of the market housing is available;
- include a mechanism for selecting an RP, unless another approach has been agreed;
- limit the rent and outgoings which can be charged to occupants and the price at which an initial share can be sold under a shared ownership arrangement;
- include a mechanism for limiting and selecting the occupants of the affordable housing, which will require supplementary agreements to entered into as follows:
  - where the Council provides grant aid, the RP or other provider will be required to enter into a nomination agreement;
  - in the case of a provider that is not an RP, or in other special cases (e.g. an unusually large grant payment), the Council will require additional security for repayment of grant on disposal of the land;
  - where the provider is not an RP, the S106 Agreement will include provisions governing letting and management arrangements.
- provide for the housing to remain affordable in perpetuity, subject to:
  - any statutory right to acquire, buy or 'staircase';
  - a mortgagee in possession clause, where the affordable housing is transferred to an RP.

B

The applicant will be required to pay the Council's reasonable legal costs in connection with the Agreement. The Council's costs in connection with any related Agreement (e.g. a nomination agreement) shall be paid by the applicant, RP or other provider, depending upon which of those parties is involved in negotiating the terms of that Agreement.

C

Where the Council has refused an application which, if allowed, would have been subject to a requirement for affordable housing, it will endeavour to negotiate a Section 106 Agreement on a 'without prejudice' basis, to take effect in the event that an appeal is allowed.

D

[Omitted as not considered relevant to this application]

E

The agreement will require the applicant to notify the Assistant Director of Housing and Contracts of the anticipated date(s) when the affordable housing will be available for occupation, a specified period(s) in advance.

F

Section 106 Agreements will include mechanisms to record when key stages are reached in the development and requirements are triggered.

G

The Council will use its enforcement powers if a Section 106 Agreement is not complied with. In addition, the fact that a development is taking place despite non-compliance with a response to searches from Section 106 Agreement will be included as a standard prospective purchasers.

## **RECOMMENDATION**

Concerns relating to material planning considerations have been addressed through revisions to the scheme or conditions on the decision notice.

For all the reasons considered above, and weighing up the development plan policies and proposals, and other material considerations, it is considered that the proposals would be appropriate. Accordingly, these applications are recommended for grant.

Approve Application 18/1053/FUL subject to completion of a Section 106 agreement to secure pedestrian footpath, Management Scheme, and Affordable Housing.

Approve Application 18/1275/FUL subject to completion of a Section 106 agreement to secure pedestrian footpath, Management Scheme, and Affordable Housing.

## **CONDITIONS**

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

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

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 25<sup>th</sup> February 2019 (including dwg. nos. 17447 SD (0) 001, 002, 003, 004, 005, 01 F, 02, 03 D, 10, 11, 20 ) as modified by other conditions of this consent.

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

3) Prior to above ground works, samples of the materials it is intended to use externally in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Wherever possible external doors and accessible windows should comply with the Secured by Design (SBD) standards as set out in Secured by Design Homes 2016. 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 and to reduce the fear of and opportunities for crime.

4) 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: To ensure the protection of the trees during the carrying out of the development.

5) Pre-commencement condition: The demolition of the existing dwelling on site with a bat roost as identified in the Bat & Protected Species Survey, Bat Emergence Survey shall not in any circumstances commence unless the Local Planning Authority has been provided with either:  
A copy of the relevant wildlife licence issued by Natural England authorising the demolition of the building and destruction of the roost; or,  
A statement in writing from Natural England to the effect that it does not consider that demolition of the building will require a licence.

Reason for pre commencement condition: To ensure that no bat roost is damaged or destroyed without the appropriate licence being obtained in accordance with the Conservation of Habitat and Species Regulations 2010 as amended. These details are required pre commencement as specified to ensure that bats are not killed or otherwise harmed by building operations.

6) Pre commencement condition: No works on the demolition of the existing dwelling on site shall commence until details of the replacement bat roost provisions have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of roost provisions and their location on the site. Demolition works shall not commence until the bat roost provision designed to compensate for the loss of the existing roost has been provided on site as approved. The bat roost provisions designed to provide an enhancement on site shall be provided as approved.

Reason for pre-commencement condition: In the interests of biodiversity and to accord with the recommendations of the Bat and Protected Species Survey, and Bat Emergence Survey. These details are required pre-commencement as specified to ensure that they provide satisfactory compensation for the loss of the existing roost and enhancement in accordance with the National Planning Policy Framework.

7) No individual dwelling hereby approved shall be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with details that have been approved by the Local Planning Authority as part of this permission. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.

Reason: To ensure that cycle parking is provided, in accordance with Exeter Local Plan Policy T3.

8) Pre-commencement condition: Prior to commencement a detailed assessment of the condition of the existing surface water drainage system must be undertaken, the results of which must be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Where the assessment shows that works are required to be undertaken to the existing surface water drainage network, a schedule of works must be submitted to the LPA with a timetable for implementation. On completion of the repair works, a verification report must be submitted and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority, prior to occupation.

Reason for pre-commencement condition: To ensure that the existing surface water drainage system is of a satisfactory condition to continue receiving surface water runoff generated from the proposed development.

9) If, during demolition/ development, contamination not previously identified is found to be present at the site then the Local Authority shall be notified as soon as practicable and no further development (unless otherwise agreed in writing with the Local Planning Authority), shall be carried out until the developer has submitted an investigation and risk assessment, and where necessary a remediation strategy and verification plan, detailing how this unsuspected contamination shall be dealt with. Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy, shall be submitted to and approved by the Local Planning Authority.

10) Pre-commencement condition: Details of gas protection measures should be submitted to and approved, in writing, by the Local Planning Authority. The building(s) shall not be occupied until the approved measures have been implemented and this has been confirmed with the Local Planning Authority.

Reason for pre-commencement condition: In the interest of the public safety and amenity.

11) Pre-commencement condition: No development (including ground works) or vegetation clearance works shall take place until a Demolition Construction Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for and not be limited to:

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.

- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) 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.
- i) No burning on site during construction or site preparation works.
- j) Measures to minimise noise nuisance to neighbours from plant and machinery.
- k) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- l) Construction traffic and deliveries must avoid school drop off/pick up hours
- m) No driven piling without prior consent from the LPA.

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

Reason for pre-commencement condition: In the interest of the public amenity, highway safety, the environment of the site and surrounding areas.

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 waste generated during construction is managed sustainably

13) Prior to occupation, the vehicular access, on site turning areas and vehicular parking spaces as indicated on Drawing Number 17447 Rev E, must be implemented for 19 cars to be parked and for vehicles to turn, so that they may enter and leave the site in forward gear, in accordance with details that have been submitted as part of this application, and thereafter retained and maintained for that purpose unless otherwise agreed in writing by the Local Planning Authority. REASON: To provide adequate visibility to achieve a safe and suitable access, in accordance with paragraph 108 of the National Planning Policy Framework.

14) Prior to occupation of the development, details of secure cycle parking provision and bin stores which show how the proposal responds to Secure by Design principles shall be submitted to and agreed in writing by the Local Planning Authority. The cycle parking and bin stores shall be implemented in accordance with the approved details and thereafter retained and maintained unless otherwise agreed in writing by the Local Planning Authority. REASON: To provide adequate facilities for sustainable transport and to reduce the fear of and opportunities for crime.

15) Pre-commencement condition: Prior to commencement details of the proposed footway adjacent to the site and visibility splays for the cycle access as indicated on the Drawing Number 17447 Rev E, have been submitted to and approved in writing by the Local Planning Authority.

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

16) Prior to occupation a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of a 'travel pack' which will be produced for each dwelling, providing information of walking and cycling routes and facilities, and public transport routes and timetables, car sharing schemes, and the location of local and central shopping and leisure facilities. The approved travel plan measures must be implemented to the satisfaction of the Local Planning Authority. A review of travel patterns for the site shall be undertaken within 6 months of occupation of the development and updated on a basis as agreed in writing with the Local Planning Authority thereafter.

REASON: To ensure that the development promotes all travel modes to reduce reliance on the private car, in accordance with paragraphs 111 and 105 of the NPPF

17) Prior to occupation, above ground works, a detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority for approval in writing. Such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. Furthermore, the scheme shall show how it accords with Secure by Design Principles, in particular with regard to boundary screen walls and fences. The landscaping shall thereafter be implemented in accordance with the approved scheme and programme.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of safety and amenity and reducing the fear of and opportunities for crime.

18) Prior to occupation, details of external lighting on the site and on the building hereby permitted shall be 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 reduce the fear of and opportunities for crime and protect the amenities of the area and wildlife.

## **INFORMATIVES**

**1) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European**

**Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).**

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

**3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. 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).**

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A Site boundary modified RD/ 21/08/18  
BM

Status: **PLANNING APPLICATION**

Title: **LOCATION PLAN**

Drg No: 17447 ■ EX ■ (0) 001 ■ A



**ARCHITECTS DESIGN GROUP**

FLOOR 4 STUDIO 5-11 5 MILLBAY ROAD PLYMOUTH DEVON PL1 3LF T: 01752 388888 www.architects-adg.co.uk

This drawing is copyright. Do not scale.

Date: **06.07.18**

Drawn: **RD**

Scale: **1 : 1250**

**@ A3**

Checked: **BM**

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

**APPLICATION NO:** 18/0704/FUL  
**APPLICANT:** Heritage Development SW Ltd  
**PROPOSAL:** Demolition of existing house and annex and construction of four new houses (semi-detached) with associated parking and infrastructure.  
**LOCATION:** 20 Countess Wear Road  
Exeter  
Devon  
EX2 6LG  
**REGISTRATION DATE:** 08.11.2018

## **SITE HISTORY**

The main dwelling was extended in the 1960s to create an annexe. The site previously sought outline planning permission in 2008 (08/0342/OUT) for a detached dwelling in the rear garden, but this was withdrawn. There is no further planning permission considered relevant to this application.

## **DESCRIPTION OF SITE/PROPOSAL**

This site consists of a detached 1960's red brick and wooden clad dwelling and annexe fronting Countess Wear Road. This property appears as two and a half storey in height and is set back from the road with a parking area to the front of the property. The private L-shaped garden to the rear slopes away from the road to an access from Mill Road. The site is close to the River Exe and is opposite an area identified within the Local Plan as a Site of Nature Conservation Importance.

The eastern side of the road is characterised by two-storey detached and semi-detached properties set back from the road. The topography of the road sloping from east to west is such that the properties on the eastern side sit significantly higher than road level. The properties on the western side of Countess Wear Road are much more varied in architectural style and design, with no clear character. The properties are generally set back from the road with gardens or parking to the front often with a boundary wall.

There are currently two applications under consideration for 20 Countess Wear. This application concerns the demolition of existing house and annex and construction of four new houses (two pairs of semi-detached) with associated parking and infrastructure in the top section of the site. Due to the change in levels the rendered dwellings will appear three storey as viewed from Countess Wear Road and four storey from the southwest (rear) elevation. The site will be excavated to create basement floors which will have level access to the rear gardens.

The ground floor frontage to Countess Wear Road consists of the entrance door and garage door, with allocated parking space in front. The existing front boundary wall will be demolished and replaced by three low level planters. There is sufficient room for an additional three cars to park in front of the properties if required. The development will be 2.8 metres higher than the existing property and sit 2.1 metres closer to the southeast boundary with a distance of 1.1 metres.

An additional application is also currently under consideration for the lower section of the garden for the construction of a single dwelling (ref. 18/0707/FUL).

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

### **Design and Access Statement**

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

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

A Site Specific Flood Risk Assessment has been submitted in respect of the two applications current under consideration at 20 Countess Wear Road (18/074/FUL and 18/0707/FUL). This site does not fall within the flood zones.

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

This report concludes that the proposal to construct new houses within the grounds of the site would have a very little material impact on the site's ecology and habitat value.

It recommends that reasonable and proportionate mitigation and enhancement provisions should be made, which would enhance the integrity of the site for the benefit of wildlife and for the occupants of the new houses. The site does not appear to provide the potential for use as a breeding or roosting/sheltering site by any European Protected Species. A great crested newt survey is likely to confirm that conclusion. The needs of bats, birds and other wildlife can, however, be accommodated and enhanced by the provisions recommended within the report.

## **REPRESENTATIONS**

**Objections: 43, including an objection from Exeter Civic Society.** Principal planning issues raised:

- Contrary to policies in Local Plan and Core Strategy
- No affordable housing provided
- Overdevelopment of the site
- Overbearing and out of scale, too high
- Incongruous to its surroundings and has a detrimental impact to the street scene
- Detrimental to residential amenity through noise, disturbance, overlooking and loss of light
- Windows and balconies negatively impact privacy.
- Poor design which does not relate to the character of the area
- Adverse impact on views from within and onto Countess Wear Road
- Impractical layout for bin collection
- The spaces and garages provided are too small for a car, insufficient and do not take account of visitor parking
- Proposed trees for landscaping are not appropriate
- The historic boundary wall will be lost
- Proximity to the Lime Kiln and its cottages, negative impact on the historic context, dwarfing them
- Conflict with walkers/cyclists, due to no pavement and loss of the boundary wall
- Increased traffic pressure on School Lane and Exe Vale Road
- Detrimental to safety of road users, pedestrians and cyclists

- Manoeuvring of cars should remain within the site boundaries
- Road drainage will not cope with the increase in dwellings
- Flood risk
- Concern regarding water runoff into the road
- Ecological survey required due to maternal bat colony
- Concerns about impacts during construction
- Increased CO<sub>2</sub> emissions

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

- the proposal is in keeping with the development adjacent to the Tally Ho!
- the current building is considered ugly and dated
- the additional housing is a positive addition to the area

## **CONSULTATIONS**

**The Highways Officer** notes that the site is a brownfield site and given the existing use and the relatively moderate number of dwellings being proposed, the traffic generation from this site does not form a reason for refusal.

Vehicular access is provided onto Countess Wear Road. The submitted plans show that the existing high walls that obscured visibility (based upon on site observations) are to be removed and the site sections indicate a low wall is to be in its place (thereby improving visibility). Given the very slow speed of the road and the nature of the access points already in the vicinity, the nose of any vehicle exiting would be visible to any vehicle approaching and they would be expected to adjust their speed accordingly, so that an emerging vehicle can exit safely. There are no recorded accidents attributed to vehicles coming in and out of this access in the past 5 years.

The proposal provides a level of parking which is in line with the requirements set out by Exeter City Council's Residential Design Guide SPD – two spaces per dwelling are being provided. Although cycle parking is provided within garages, there is a conflict with bin storage facilities and therefore there is no clarity over the secure cycle provision. The application therefore fails to meet clearly the standards set out in the Sustainable Transport SPD.

If the applicant wishes to work on the highway (for example removing walls adjacent to the highway), permission must be obtained prior to undertaking this work.

Subject to conditions being attached in the grant of any permission to secure the provision of the vehicular parking spaces and clarification of the secure covered cycle parking, no objection.

Following this comment the Highways Officer has requested confirmation of visibility splays of the properties fronting onto Countess Wear Road. These have not yet been provided.

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

**South West Water** (SWW) comment that the method proposed to discharge into a surface water sewerage network system is acceptable and meets with the Run-off Destination Hierarchy. However, should this method be amended, SWW will require clear evidence to

demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

## **PLANNING POLICIES/POLICY GUIDANCE**

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

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

### **Exeter Local Development Framework Core Strategy**

#### Objective 9

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

CP1 Spatial approach

CP4 Housing density

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

CP5 Meeting housing needs

CP7 Affordable housing

CP15 Sustainable design and construction

CP17 Design and local distinctiveness

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

AP1 Design and local distinctiveness

AP2 Sequential approach

H1 Housing and land search sequence

H2 Housing location priorities

H6 Affordable housing

T1 Hierarchy of modes of transport

T2 Accessibility criteria

T3 Encouraging use of sustainable modes of transport

T10 Car parking standards

EN4 Flood risk

DG1 Objectives of urban design

DG2 Energy conservation

DG4 Residential layout and amenity

DG6 Vehicle circulation and car parking in residential developments

DG7 Crime prevention and safety

### **Exeter City Council Supplementary Planning Document**

Residential Design SPD 2010

Sustainable Transport SPD

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

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

DD1 Sustainable development  
DD8 Housing on unallocated sites  
DD9 Accessible, adoptable and wheelchair user dwellings  
DD13 Residential amenity  
DD20 Sustainable movement  
DD21 Parking  
DD25 Design principles  
DD26 Designing out crime  
DD31 Biodiversity  
DD33 Flood risk

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

#### **OBSERVATIONS**

The principal issues raised by this proposal are:

- the principle of development
- overdevelopment
- amenity of neighbouring properties
- the design, scale and massing of the proposal, and its impact on the street scene

#### **Principle**

The introduction of additional dwellings within this location is considered acceptable. Infill development represents an important contribution to the housing supply within the city. However, the number of units proposed in this instance raises a number of concerns that override the general acceptance of the principle of development.

#### **Overdevelopment**

To accord with policy CP4 of the Exeter Core Strategy, residential development should achieve the highest appropriate density compatible with the protection of local amenities and the character and quality of the local environment. If a development is too large for the site, it can have implications for neighbouring amenity or the street scene.

#### **Amenity of neighbours**

The number of dwellings proposed and the increased massing of the building is a significant issue in respect of the residential amenity on the adjacent building, 20A Countess Wear Road. Given the design of the building, the height and proximity to the boundary, it is considered it would have an adverse impact on the residential amenity of the property, to the extent that the ability of the residents to feel at home within their garden would be significantly diminished. Consequently it is considered the proposal fails to comply with Policy CP4 of the Exeter Core Strategy, Policy DG4 of the Exeter Local Plan and Policy DD13 of the Development Delivery DPD.

Concern has also been raised about the impact of the development on the property to the north of the development, 12 Countess Wear Road and the properties to the rear on Mill Road. The

distance between the rear elevation of the proposed dwellings and the dwellings within Mill Road exceeds 22 metres, in compliance with Policy DG4 and would therefore not constitute a reasons for refusal.

### **Design, scale and massing, and impact on the street scene**

Objectors raise concerns regarding the design of the dwellings, particularly highlighting that the properties are overbearing and out of character with the street scene. The properties on the western side of Countess Wear Road are varied in style but generally are two storey with pitched roofs and are set back from the road with stone boundary walls. The design and access statement states that the height of the dwelling is the same as that of a two storey dwelling with a traditional pitched roof. However, the choice of flat roof amplifies the volume and massing of the proposed dwellings within the street scene, particularly as the property to the south is single storey as viewed from the street.

The proposed dwellings will sit significantly higher than the adjoining properties, and lack variation in height, thus relating poorly to adjoining properties. The largely blank side elevations, which would be viewable from the street scene, are particularly dominant. The result is that the proposed dwellings present an incongruous addition to the street scene which is contrary to Objective 9 and Policy CP17 of the Exeter Core Strategy and Policy DG1 of the Exeter Local Plan.

To accord with the Residential Design Guide SPD, all buildings should have habitable frontage at the ground floor level. Integral parking (garages) will only be acceptable where living areas are accommodated on the ground floor frontage, and where the dwellings are set sufficiently far forward to avoid parking between the dwelling and the street. With no habitable rooms on the ground floor frontage and an integrated garage with parking in front, this proposal is clearly contrary to the Residential Design Guide SPD.

### **Other issues**

Objectors have raised concerns regarding the increase of traffic as a result of the development, the potential for conflict with other road users and the number of parking spaces provided. The proposal provides sufficient parking in compliance with the Residential Design Guide SPD and Policy T10 of the Exeter Local Plan. The Highways Officer's assessment indicates that due to the moderate number of dwellings proposed the traffic generation from this site does not constitute a reason for refusal. However, accurate visibility splays have not to date been provided to indicate that there will be safe access from the site for vehicles.

The plans indicate that cycle storage will be provided within the garages of the dwellings. However, there is a lack of clarity regarding the number of secure spaces provided. It is also unclear whether the garages are of adequate size to adequately accommodate cycle storage in line with the requirements of the Residential Design Guide SPD.

In terms of residential amenity for the occupiers, the proposed dwellings meet the Council's minimum standards, as set out in Policy DG4 of the Exeter Local Plan and the Residential Design Guide SPD. Storage for two bins is allocated within the rear gardens, with no impact on the street scene, and is within the 25 metre wheeling distance required by the Residential Design Guide SPD.

As a result of the concerns raised by objectors regarding the impact of the development on the ecology of the site, an Ecological Appraisal was provided. The appraisal concludes that there would be little material impact on the site ecology and habitat value, and suggests mitigation

and enhancement provisions. In line with the findings of the Ecological appraisal, it is not considered that impact on ecology is a valid argument for refusal.

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

The proposed development for the four new dwellings has no archaeological implications. Any remains on the area are very unlikely to have survived the extensive 1960s and later development of this site. The proposal does not have an adverse impact on the character and setting of any heritage assets in the area.

Objectors raised concerns that the proposed dwellings would increase flood risk. As the site is located outside the flood zones 2 and 3, and is not identified as being within the surface flooding area, this does not constitute a reason for refusal.

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature and scale of the development it has been concluded that an AA is required. This AA has been carried out, and concludes that the development could have an impact, primarily arising from the recreational activity of future occupants of the development. If approved, this impact must 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, which is being funded through a proportion of the CIL collected in respect of the development being allocated to funding the mitigation strategy.

If the proposal is approved it will generate a £49,857.23 CIL contribution.

### **Conclusion**

As stated above, the principal issues arising from this proposal are overdevelopment, neighbouring amenity, scale and massing and the impact on the street scene. Although the principle of development at this site is considered acceptable, the proposal for four residential units will result in a cramped form of development that will be detrimental to the character of the area and create adverse impacts on the amenities of the neighbouring property, 20A Countess Wear Road. The four dwellings will be an incongruous addition to the street scene. The proposal is therefore contrary to Objective 9 and Policies CP4 and CP17 of the Exeter Core Strategy, Policies H2, DG1 and DG4 of the Exeter Local Plan First Review and the Residential Design Guide SPD.

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

There are no other issues which would justify refusal. For the reasons outlined within this report the application is recommended for refusal.

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

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

site, Mill Lane and at various points on Countess Wear Road.

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

The application was considered in conjunction with a further application relating to 20 Countess Wear Road, which was for residential provision at the bottom of the garden to the rear of the existing house.

Forty-three objections had been received on grounds relating to housing, design, transport, heritage, and environmental issues. Members viewed the site, and were concerned about overdevelopment, impact on the street scene, and the relationship with neighbours.

Members supported the suggestion to negotiate a revised proposal with a reduced number of units, and that either this, if acceptable for approval, or the existing application, which was likely to be refused, should be reported to the Planning Committee because of the number of objections.

### **RECOMMENDATION**

#### **REFUSAL for the following reasons:**

1) The proposal would be contrary to Objective 9 and Policies CP4 and CP17 of the Exeter Core Strategy, Policies H2, DG1 (b), (d), (f), (g), (h and DG4 a, b, c of the Exeter Local Plan First Review and the Residential Design Guide SPD because:

i) the proposed construction of four residential units would result in the overdevelopment of an inadequately proportioned site, presenting a cramped form of development unsympathetic with, and detrimental to, the character of this established residential area;

ii) the siting scale and design of the development would have a poor relationship with, and overbearing impact on, No. 20A Countess Wear Road with adverse impacts on the residential amenities of existing and future occupiers of the property, particularly in terms of loss of outlook and overshadowing in the garden area; and

iii) by reason of its scale, height and design the proposed development would be overbearing, dominant and visually intrusive within and relate poorly to the street scene, to the detriment of the character of the area.

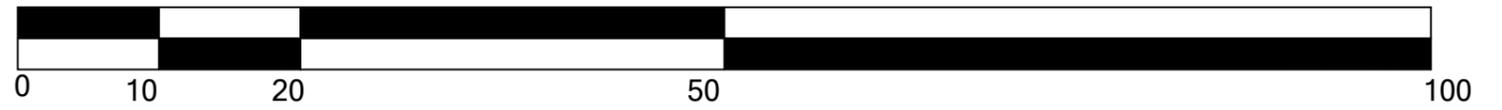
### **INFORMATIVES**

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

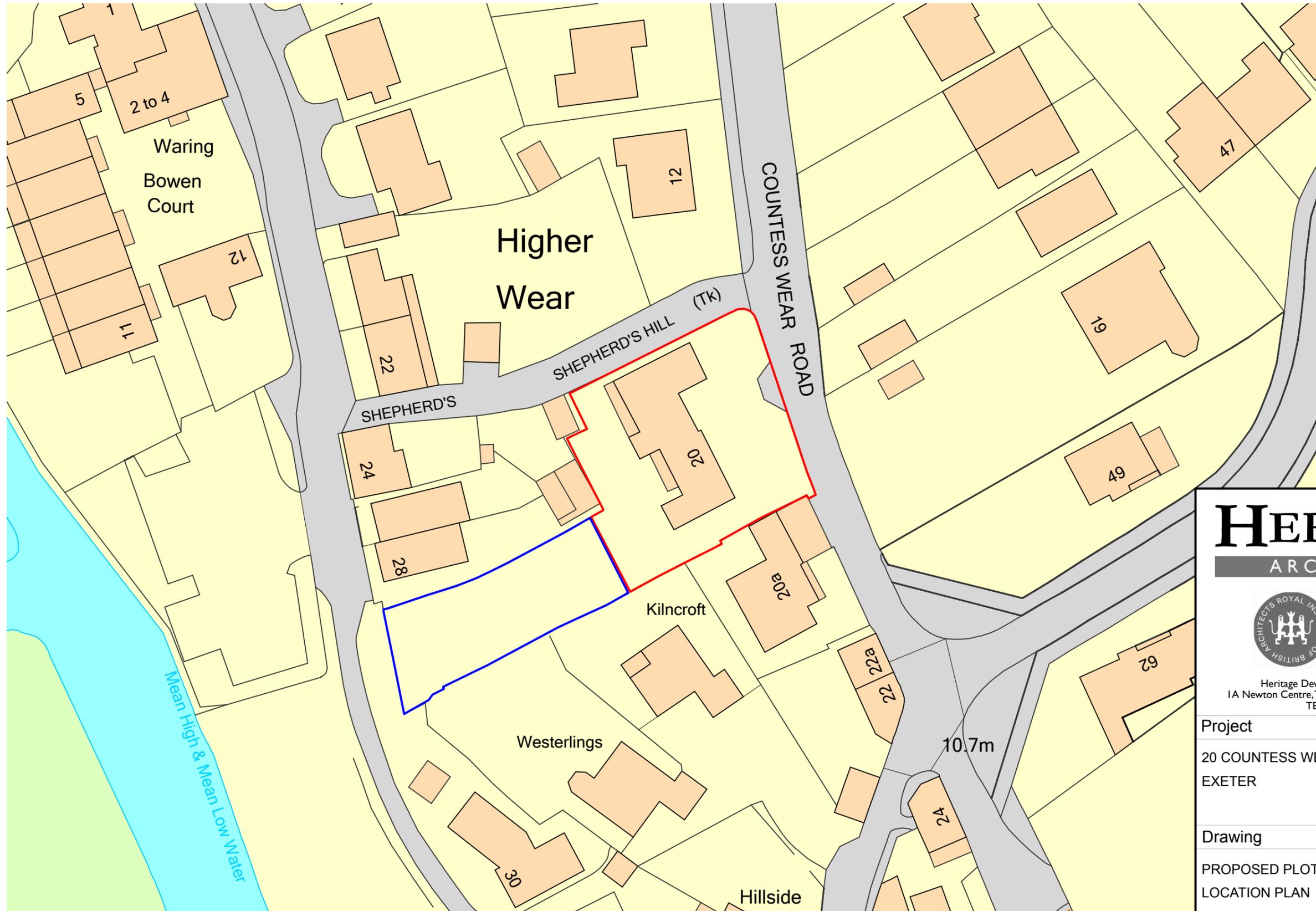
2) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an

impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to funding the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

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# HERITAGE ARCHITECTS



Heritage Developments South West Ltd  
 1A Newton Centre, Thorverton Road, Exeter. EX28GN  
 TEL: 01392 829900

**Project**

20 COUNTESS WEAR  
 EXETER

**Drawing**

PROPOSED PLOTS 1-4  
 LOCATION PLAN

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

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

**REGISTRATION DATE:** 22.11.2018

## **SITE HISTORY**

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

## **DESCRIPTION OF SITE/PROPOSAL**

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

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

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

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

### **Design and Access Statement**

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

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

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

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

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

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

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

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

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

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

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

## **REPRESENTATIONS**

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

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

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

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

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

**CONSULTATIONS**

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

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

**PLANNING POLICIES/POLICY GUIDANCE**

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

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

**Exeter Local Development Framework Core Strategy**

Objective 9

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

CP1 Spatial approach

CP4 Housing density

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

CP5 Meeting housing needs

CP7 Affordable housing

CP12 Flood risk

CP15 Sustainable design and construction

CP17 Design and local distinctiveness

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

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

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

Residential Design SPD 2010  
Sustainable Transport SPD 2013

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

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

DD1	Sustainable development
DD8	Housing on unallocated sites
DD9	Accessible, adoptable and wheelchair user dwellings
DD13	Residential amenity
DD20	Sustainable movement
DD21	Parking
DD25	Design principles
DD26	Designing out crime
DD31	Biodiversity
DD33	Flood risk

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

### **OBSERVATIONS**

The principal issues of concern relating to this application are:

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

### **Principle of the development**

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

### **Design and amenity**

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

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

### **Flooding**

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

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

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

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

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

### **Other matters**

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

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

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

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

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

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

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

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

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

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

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

### **Conclusion**

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

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

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

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

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

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

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

## **RECOMMENDATION**

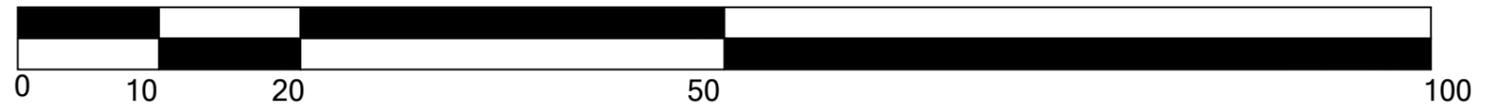
### **REFUSAL REASON**

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

## **INFORMATIVES**

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

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



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# HERITAGE ARCHITECTS



Heritage Developments South West Ltd  
 1A Newton Centre, Thorverton Road, Exeter. EX28GN  
 TEL: 01392 829900

**Project**

20 COUNTESS WEAR  
 EXETER

**Drawing**

PROPOSED PLOT 5  
 LOCATION PLAN

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**REPORT TO: PLANNING COMMITTEE****Date of Meeting: 15 April 2019****Report of: City Development Manager****Title: Delegated Decisions****1 WHAT IS THE REPORT ABOUT**

- 1.1 This report lists planning applications determined and applications that have been withdrawn between the date of finalising the agenda of the last Planning Committee and the date of finalising this agenda. Applications are listed by Ward.

**2 RECOMMENDATION**

- 2.1 Members are requested to advise the Asst City Development Manager Planning (Roger Clotworthy) or City Development Manager (Andy Robbins) of any questions on the schedule prior to Planning Committee meeting.
- 2.2 Members are asked to note the report.

**3 PLANNING APPLICATION CODES**

- 3.1 The latter part of the application reference number indicates the type of application:

OUT	Outline Planning Permission
RES	Approval of Reserved Matters
FUL	Full Planning Permission
TPO	Works to Tree(s) with Preservation Order
ADV	Advertisement Consent
CAT	Works to Tree(s) in Conservation Area
LBC	Listed Building Consent
ECC	Exeter City Council Regulation 3
LED	Lawfulness of Existing Use/Development
LPD	Certificate of Proposed Use/Development
TEL	Telecommunication Apparatus Determination
CMA	County Matter Application
CTY	Devon County Council Application
MDO	Modification and Discharge of Planning Obligation Regulations
NMA	Non Material Amendment
EXT	Extension to Extant Planning Consent
PD	Extension - Prior Approval
PDJ	Office to Dwelling - Prior Approval

- 3.2 The decision type uses the following codes:

DREF	Deemed Refusal
DTD	Declined To Determine
NLU	Was Not Lawful Use
PAN	Prior Approval Not Required
PAR	Prior Approval Required
PER	Permitted
REF	Refuse Planning Permission
RNO	Raise No Objection
ROB	Raise Objections
SPL	Split Decision
WDN	Withdrawn by Applicant
WLU	Was Lawful Use
WTD	Withdrawn - Appeal against non-determination

**ANDY ROBBINS**  
**CITY DEVELOPMENT MANAGER**

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<b>Delegated Decision</b>			
Application Number:	18/1840/FUL	Delegation Briefing:	17/01/2019
Decision Type:	Permitted	Date:	02/04/2019
Location Address:	St Annes Well 31 Well Street Exeter Devon EX4 6QL		
Proposal:	Cladding to walls of pub, and fence around beer garden		
<b>Delegated Decision</b>			
Application Number:	19/0191/FUL	Delegation Briefing:	21/02/2019
Decision Type:	Permitted	Date:	19/03/2019
Location Address:	13A And B St James Road Exeter Devon EX4 6PY		
Proposal:	Change of use of domestic storage building to B1(a) office use.		
<b>Delegated Decision</b>			
Application Number:	19/0331/DIS	Delegation Briefing:	
Decision Type:	Permitted	Date:	20/03/2019
Location Address:	10 Allington Mead Exeter Devon EX4 5AP		
Proposal:	Discharge of condition 3 (Materials)		
<b>Exwick</b>			
<b>Delegated Decision</b>			
Application Number:	18/1515/FUL	Delegation Briefing:	
Decision Type:	Refuse Planning Permission	Date:	19/03/2019
Location Address:	10 Branscombe Close Exeter Devon EX4 1RW		
Proposal:	Additional first floor to existing bungalow.		
<b>Heavitree</b>			
<b>Delegated Decision</b>			
Application Number:	19/0021/FUL	Delegation Briefing:	28/02/2019
Decision Type:	Permitted	Date:	22/03/2019
Location Address:	14 Mont Le Grand Exeter Devon EX1 2PD		
Proposal:	Proposed rear extension, replacement of garage, internal alterations and other repairs.		
<b>Delegated Decision</b>			
Application Number:	19/0023/LBC	Delegation Briefing:	28/02/2019
Decision Type:	Permitted	Date:	22/03/2019
Location Address:	14 Mont Le Grand Exeter Devon EX1 2PD		
Proposal:	Proposed rear extension, replacement of garage, internal alterations and other repairs.		



<b>Delegated Decision</b>			
Application Number:	19/0073/FUL	Delegation Briefing:	21/02/2019
Decision Type:	Permitted	Date:	18/03/2019
Location Address:	11 Alexandra Terrace Exeter Devon EX4 6SY		
Proposal:	Outbuilding and block paving on land opposite property		
<b>Delegated Decision</b>			
Application Number:	19/0130/LBC	Delegation Briefing:	14/02/2019
Decision Type:	Permitted	Date:	19/03/2019
Location Address:	11 Lyndhurst Road Exeter Devon EX2 4PA		
Proposal:	Internal alterations including new lift and wall partitions and enlarge window aperture.		
<b>Delegated Decision</b>			
Application Number:	19/0159/FUL	Delegation Briefing:	14/02/2019
Decision Type:	Permitted	Date:	25/03/2019
Location Address:	12A Baring Crescent Exeter Devon EX1 1TL		
Proposal:	Garden room on side elevation		
<b>Delegated Decision</b>			
Application Number:	19/0160/LBC	Delegation Briefing:	14/02/2019
Decision Type:	Permitted	Date:	25/03/2019
Location Address:	12A Baring Crescent Exeter Devon EX1 1TL		
Proposal:	Garden room on side elevation		
<b>Delegated Decision</b>			
Application Number:	19/0198/FUL	Delegation Briefing:	07/03/2019
Decision Type:	Permitted	Date:	29/03/2019
Location Address:	11 Marlborough Road Exeter Devon EX2 4TJ		
Proposal:	Single storey side extension.		
<b>Delegated Decision</b>			
Application Number:	19/0199/DIS	Delegation Briefing:	
Decision Type:	Permitted	Date:	01/04/2019
Location Address:	College House St Lukes Hall Heavitree Road Exeter Devon EX1 2LU		
Proposal:	Discharge of conditions 3 (details to be submitted) & 4 (materials) in relation to planning application 18/0830/FUL		

<b>Delegated Decision</b>	
Application Number:	19/0200/DIS
Decision Type:	Split Decision
Location Address:	91-93 Magdalen Road Exeter EX2 4TG
Proposal:	Discharge conditions 5 (Energy), 6 (Energy Assessment), 7 (Materials), 8 (Building Details) and 14 (Obscured Glazing) of pp. 18/0885/FUL - Subdivide and change the use of upper floor maisonette to 4 no. 1-bed flats at 91 Magdalen Road, together with flat roof dormer window and external alterations to the rear of the building, and demolish 2 storey rear extension/garage at 93 Magdalen Road and redevelop to provide a 2 and a half storey extension with 3 no. 2-bed flats, with associated bin store/bike store and landscaping.
<b>Delegated Decision</b>	
Application Number:	19/0222/FUL
Decision Type:	Permitted
Location Address:	11 Albion Place Exeter Devon EX4 6LH
Proposal:	Demolish existing ground floor WC and create a new single storey rear extension. No structural alterations to the original dwelling.
<b>Delegated Decision</b>	
Application Number:	19/0223/LBC
Decision Type:	Permitted
Location Address:	11 Albion Place Exeter Devon EX4 6LH
Proposal:	Demolish the existing ground floor WC and create a new single storey rear extension. No structural alterations to the original dwelling.
<b>Delegated Decision</b>	
Application Number:	19/0251/FUL
Decision Type:	Permitted
Location Address:	36 East Grove Road Exeter Devon EX2 4LX
Proposal:	Loft conversion including dormer window on rear elevation and rooflights
<b>Delegated Decision</b>	
Application Number:	19/0334/FUL
Decision Type:	Withdrawn by Applicant
Location Address:	Land To The Rear Of 82-84 Blackboy Road Exeter EX4 6SU
Proposal:	Proposed 4-bed student residence



<b>Delegated Decision</b>	
Application Number: 19/0158/LBC	Delegation Briefing: 28/02/2019
Decision Type: Permitted	Date: 22/03/2019
Location Address: Wonford House Hospital Dryden Road Exeter Devon EX2 5AF	
Proposal: Formation of new fenced bin store and relocation of car parking, and renovation of outhouse.	
<b>Delegated Decision</b>	
Application Number: 19/0196/ADV	Delegation Briefing:
Decision Type: Permitted	Date: 22/03/2019
Location Address: Rosemoor Court Pynes Hill Exeter Devon EX2 5TU	
Proposal: New signage	
<b>Delegated Decision</b>	
Application Number: 19/0269/FUL	Delegation Briefing: 28/02/2019
Decision Type: Permitted	Date: 22/03/2019
Location Address: 54 Masterson Street Exeter Devon EX2 5GR	
Proposal: Installation of two Velux roof lights in the NE roof elevation.	
<b>Delegated Decision</b>	
Application Number: 19/0339/DIS	Delegation Briefing:
Decision Type: Permitted	Date: 19/03/2019
Location Address: West Of England College Topsham Road Exeter Devon EX2 6HA	
Proposal: Discharge of conditions 4 (Car Park Management Plan) and 5 (Travel Plan) of planning application 18/0853/FUL dated 15 August 2018.	
<b>St Davids</b>	
<b>Delegated Decision</b>	
Application Number: 18/1103/FUL	Delegation Briefing: 28/02/2019
Decision Type: Permitted	Date: 27/03/2019
Location Address: Rougemont House Castle Street Exeter Devon EX4 3PU	
Proposal: Alterations to external enclosed courtyards including freestanding canopy, seating, bamboo fencing, bicycle and bin storage facilities and changes to ground surface materials	
<b>Delegated Decision</b>	
Application Number: 18/1445/FUL	Delegation Briefing: 01/11/2018
Decision Type: Refuse Planning Permission	Date: 22/03/2019
Location Address: Beech Hill House Walnut Gardens Exeter Devon EX4 4DH	
Proposal: Development to build residential accommodation for students (192 Bed Spaces) with associated facilities, infrastructure works and landscaping following demolition of existing buildings.	

<b>Delegated Decision</b>	
Application Number:	18/1811/LBC
Delegation Briefing:	03/01/2018
Decision Type:	Permitted
Date:	22/03/2019
Location Address:	Land At Beech Hill House Walnut Gardens Exeter Devon EX4 4DH
Proposal:	Demolition of existing link building attached to adjacent listed building (Walnut House) to facilitate re-development for student accommodation (192 bed spaces) with associated re-installment of gates to control area.
<b>Delegated Decision</b>	
Application Number:	19/0032/FUL
Delegation Briefing:	31/01/2019
Decision Type:	Permitted
Date:	19/03/2019
Location Address:	157 Fore Street St Davids Exeter Devon EX4 3AT
Proposal:	Change of use of first, second and third floors from ancillary storage (A1) to flats and 1 maisonette with associated external alterations.
<b>Delegated Decision</b>	
Application Number:	19/0090/FUL
Delegation Briefing:	07/02/2019
Decision Type:	Permitted
Date:	21/03/2019
Location Address:	10 Cathedral Close Exeter Devon EX1 1EZ
Proposal:	Formation of access gateway to rear garden
<b>Delegated Decision</b>	
Application Number:	19/0091/LBC
Delegation Briefing:	07/02/2019
Decision Type:	Permitted
Date:	21/03/2019
Location Address:	10 Cathedral Close Exeter Devon EX1 1EZ
Proposal:	Formation of access gateway to rear garden
<b>Delegated Decision</b>	
Application Number:	19/0134/SO
Delegation Briefing:	
Decision Type:	EIA Not Development
Date:	26/03/2019
Location Address:	Exeter College Further Education Hele Road Exeter Devon EX4 4JS
Proposal:	Request for a screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) for the proposed masterplan and redevelopment of Exeter College Hele Road Campus
<b>Delegated Decision</b>	
Application Number:	19/0225/PDJ
Delegation Briefing:	
Decision Type:	Prior Approval Required and Granted
Date:	27/03/2019
Location Address:	Ground Floor 3 Charlotte Mews Pavilion Place Exeter Devon EX2 4HA
Proposal:	Prior approval for change of use from office to residential



## Topsham

### Delegated Decision

Application Number: 18/0406/FUL Delegation Briefing: 31/01/2019  
Decision Type: Permitted Date: 18/03/2019  
Location Address: Flat 21 Trafalgar Court High Street Topsham Exeter Devon EX3 0DU  
Proposal: Enlarge 2 windows on south-west elevation to form Juliette balconies, new timber frame windows and 1 roof light.

### Delegated Decision

Application Number: 18/1109/DIS Delegation Briefing:  
Decision Type: Condition(s) Partially Approved Date: 01/04/2019  
Location Address: Land At Wear Barton Road Exeter  
Proposal: Discharge of condition 7 (contamination), 8 (noise), 9 (Archaeology) and 10 (landscape and ecological management plan) of planning permission 16/0849/OUT granted on 6 December 2016

### Delegated Decision

Application Number: 18/1835/FUL Delegation Briefing: 14/02/2019  
Decision Type: Permitted Date: 18/03/2019  
Location Address: 28 Majorfield Road Topsham Exeter Devon EX3 0ES  
Proposal: Single storey rear extension

### Committee Decision

Application Number: 19/0055/VOC Delegation Briefing: 31/01/2019  
Decision Type: Permitted Date: 19/03/2019  
Location Address: Sandy Park Lodge (Formerly Primrose Orchard) Old Rydon Lane Topsham Exeter Devon EX2 7JP  
Proposal: Variation of Condition no. 3 of Planning Application Reference Number: 17/0665/OUT granted planning permission on 26/06/2018 to remove requirement for one-way system on Old Rydon Lane to be implemented/completed prior to implementation of permission.

### Delegated Decision

Application Number: 19/0268/FUL Delegation Briefing: 28/02/2019  
Decision Type: Permitted Date: 22/03/2019  
Location Address: 17 Monmouth Street Topsham Exeter Devon EX3 0AJ  
Proposal: Construction of a single storey rear extension, to replace an existing conservatory.

<b>Delegated Decision</b>	
Application Number: 19/0294/FUL	Delegation Briefing: 07/03/2019
Decision Type: Permitted	Date: 29/03/2019
Location Address: 12 Rhode Island Drive Exeter Devon EX2 7FH	
Proposal: Single storey rear extension	
<b>Delegated Decision</b>	
Application Number: 19/0297/DIS	Delegation Briefing:
Decision Type: Permitted	Date: 27/03/2019
Location Address: Reeds The Retreat Drive Topsham Exeter Devon EX3 0LS	
Proposal: Discharge of condition 3 of Planning permission ref. 18/0790/FUL granted 6 July 2018 relating to written scheme of archaeological work for monitoring and recording	
<b>Delegated Decision</b>	
Application Number: 19/0345/NMA	Delegation Briefing:
Decision Type: Permitted	Date: 02/04/2019
Location Address: Newport Caravan Park Exeter Road Topsham Exeter EX2 7DT	
Proposal: Amendment to approved plans (Condition 1 of reserved matters permission 16/1305/RES) to substitute the Pathfinder Silkwood mobile home for the Prestige Anthem (plots 1 - 5), Reprise (plots 6 - 12), and Sofia (plots 13 - 20) - (Non-material Minor Amendment to Reserved matters permission ref 16/1305/RES granted on 13th March 2018).	
<b>Delegated Decision</b>	
Application Number: 19/0369/NMA	Delegation Briefing:
Decision Type: Permitted	Date: 20/03/2019
Location Address: 502 Topsham Road Exeter Devon EX2 7AJ	
Proposal: Non material amendment sought (to approved scheme 17/0654/FUL) to change to the rear and flanking elevations to wrap glass around each side and across the front of the projecting part of the SW elevation	
<b>Total Applications: 60</b>	

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**REPORT TO:** PLANNING COMMITTEE  
**Date of Meeting:** 15 April 2019  
**Report of:** City Development Manager  
**Title:** Appeals Report

**Is this a Key Decision?** No

**Is this an Executive or Council Function?** No

**1. What is the report about?**

1.1 The report provides Members with information on latest decisions received and new appeals since the last report.

**2. Recommendation:**

2.1 Members are asked to note the report.

**3. Summary of Decisions Received**

**3.1 17/1970/FUL - Mowbray Cottage, Butts Road – One single storey dwelling with 3 bedrooms**

A planning appeal has been dismissed by the Planning Inspectorate for a single storey dwelling on the grounds of Mowbray Cottage, ref 17/1970/FUL.

The main issues are:

- a) Whether the proposed development would preserve or enhance the character or appearance of the Heavitree Conservation Area and the setting of nearby listed buildings,
- b) Whether future occupiers would be likely to experience acceptable living conditions with particular reference to internal space provision, parking provision and access for wheelchair users, and
- c) The effect of the proposed development with respect to trees and biodiversity.

**Heritage**

The inspector considered the proposed dwelling would appear cramped and out of place in the context of the Conservation Area, as it would contrast markedly with the large spacious plots found elsewhere. The proposal would therefore result in an incongruous feature within the Conservation Area and the scheme as a whole would fail to preserve the character and appearance of the Conservation Area. Given its design and prominence, the appeal proposal would introduce a feature which also would be incongruous in the context of the setting of the identified nearby listed buildings and the green space associated with the Lodge and Heavitree Park. This visually intrusive structure would draw the eye of a passer-by, detracting from the historic value of the heritage assets, thereby diminishing their significance. Overall, the Inspector concludes that the proposal would be harmful to the setting of the listed buildings as well as being harmful to the character and appearance of the Conservation Area. Paragraph 193 of the Framework provides that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm should require clear and convincing justification in line with paragraph 194 of the Framework. Where a development proposal leads to less than substantial harm, this harm should be weighed against the public benefits in line with paragraph 196 of the Framework. The Inspector found that the benefits which the proposed development will bring are very limited, and taking the above points together, I find that the harm to the Conservation Area and Listed Buildings would outweigh the benefits of the proposal.

The inspector find that the proposed development would not be consistent with the pattern of development within the Conservation Area, and conclude that the proposal would neither preserve nor enhance the character or appearance of the Conservation Area, causing less than substantial harm to its significance. The proposal would further fail to preserve or enhance the setting, and thereby the significance of, the nearby listed buildings. In the absence of any public benefit to outweigh this harm, the proposal would be in conflict with Policies CP4 and CP17 of the Exeter Core Strategy 2012 (the Core Strategy), and Policies C1, C4, L3 and DG1 of the Exeter

Local Plan First Review (2005) (the Local Plan), and Policies DD1, DD8, DD22, DD25 and DD28 of the Delivery Development Plan Document (Publication Version 2015) (the DPD) which, amongst other things such as the protection of green spaces and quality of design, require that new development respect and enhance the special qualities of the Conservation Area and conserve or enhance the historic environment of the surrounding area. Furthermore, the proposal would be contrary to those parts of the Framework which seek to protect the significance of heritage assets.

#### Living Conditions

Regarding adequate parking, bicycle and bin storage and accessibility the Inspector note that the appeal proposal does provide an access point directly off the adjacent pedestrian footpath, which would allow for wheelchair users to access the living room and washing facilities. Consequently, I conclude that the proposal would comply with Policy CP5 of the Core Strategy, and would be in accordance with Policy DD9 of the DPD which, amongst other things, seek to ensure housing provides suitable access for wheelchairs and is located close to services and facilities. In other aspect of amenity provision and living condition the Inspector concludes it follows ECC's policies and the Residential Design SPD.

#### Trees and biodiversity

The Inspector conclude that the proposal would not harm by adverse impact on trees and biodiversity and that full details in respect of the provision and retention of landscaping could be suitably secured by condition.

#### 5 year housing land supply

The Inspector conclude that the proposal would be harmful to the character and appearance of the Conservation Area and would be harmful to the setting of the nearby Listed Buildings, and as such paragraph 11(d)(i) of the Framework indicates that that permission should not be granted even if the Council cannot currently demonstrate a five year housing land supply.

#### **4. New Appeals**

None.

### **CITY DEVELOPMENT MANAGER**

#### **Local Government (Access to Information) Act 1985 (as amended)**

##### **Background papers used in compiling the report:**

Letters, application files and appeal documents referred to in report are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

Contact for enquiries: Democratic Services (Committees) - Room 2.3. Tel: 01392 265275