

## **PLANNING COMMITTEE**

Monday 11 October 2021

### **Present:-**

Councillor Emma Morse (Chair)  
Councillors Williams, Bialyk, Branston, Denning, Hannaford, Lights, Martin, A, Mitchell, M, Moore, D and Sutton

### **Apologies for absence**

Councillors Buswell and Sparkes

### **Also Present**

Chief Executive & Growth Director, Liveable Exeter Programme Director and Interim City Development Lead, Interim Service Lead for City Development, Principal Project Manager (Development) (MD), Principal Project Manager (Development) (HS), Planning Solicitor, Transport Planning Manager and Democratic Services Officer (HB)

### **53 FORMER LEADER OF EXETER CITY COUNCIL - PETER EDWARDS**

The Chair reported with great sadness the recent passing of Peter Edwards, former Leader of Exeter City Council. Her thoughts and those of Members were with the family at this difficult time.

### **54 MINUTES**

The minutes of the meeting held on 6 September 2021 were taken as read, approved and signed by the Chair as correct.

### **55 DECLARATIONS OF INTEREST**

A Member declared the following interest:-

<b>COUNCILLOR</b>	<b>MINUTE</b>
Councillor Morse	Min. No. 57 – disclosable pecuniary interest

### **56 PLANNING APPLICATION NO. 20/0538/OUT - LAND OFF SPRUCE CLOSE AND CELIA CRESCENT, EXETER**

The Principal Project Manager and Acting Major Projects Team Leader presented the outline application for up to 93 residential dwellings (Approval sought for details of access only, with scale, layout, appearance and landscaping all reserved for future consideration) (Revised Scheme).

The Principal Project Manager explained that the application had been deferred at the previous Planning Committee on 6 September 2021 for a site visit by the Planning Committee on 28 September 2021. He reiterated the main elements reported at the September meeting including site photographs and an aerial view, panoramic views from the site and adjoining fields and referred to the Zone of

Theoretical Visibility as set out in the Landscape and Visual Impact Assessment showing viewpoints from surrounding residential areas and surrounding hills. Photomontages of viewpoints had also been provided by the applicant from Cumberland Way, Tithebarn Way, Birchy Barton and Hillyfield Road. He also referred to the receipt of 467 objections.

The Principal Project Manager went on to provide the following update:-

- Devon Wildlife Trust had withdrawn its objection to the application on 8 September 2021;
- the applicant had submitted a statement responding to the issues raised by Councillor Allcock at the previous Committee meeting, and a briefing note by their planning consultant addressing Policy LS1 and Policy CP16, as well as relevant appeal decisions;
- the applicant had also submitted a letter by their planning consultant on 7 October 2021, comments including:-
  - the presence or absence of a five year housing land supply is of marginal relevance and untested;
  - the National Planning Policy Framework (NPPF) states that there should be a presumption in favour of sustainable development;
  - the independent landscape assessment endorses the findings of the Landscape and Visual Impact Assessment (LVIA) submitted with the application; and
  - the Section 106 Agreement will deliver very significant benefits for the local community, including substantial public open space;
- an independent chartered landscape architect had reviewed revised plans, her comprehensive report included in the agenda. The report concluded that “the effects of the proposed development have been assessed and through a review found to be very localised, having a moderate impact on the valued landscape characteristics and minimal impacts on views from within the landscape and of the setting of the city. The proposed siting within the context of retained traditional hedgebanks will allow the development to be relatively smoothly assimilated into the local landscape.”;
- other comments of the landscape architect included:-
  - the ability to obtain views of the site from public locations was extremely limited and current site access was at the gift of the landowner;
  - the development as proposed could accord with the objectives of Policy LS1 of the Exeter Local Plan First Review and Policy CP16 of the Exeter Core Strategy;
  - provides unhindered quiet recreation in perpetuity contributing to the public enjoyment and access to the urban fringe;
  - parts of fields 1 and 2 that form this application on the revised Illustrative Masterplan are so well related to the urban fringe that they can be developed without unacceptably impacting on the policy objectives of the Core Strategy;
  - the development will not set a precedent for any other part of the landscape in the LS1 area or the land referenced in paragraph 4.11 of the Core Strategy,
  - should the site be consented for outline planning, the reserved matters application could and should deliver the design and landscape enhancement objectives of both policy DG1 and paragraph 130 of the NPPF; and
- since the previous Planning Committee, the Council had reviewed and updated its Five Year Housing Land Supply Statement which now stated that the Council could demonstrate, for the period commencing 1 April 2021, a supply of five years and five months. Therefore, the Council could demonstrate the required five year supply of deliverable housing sites with an appropriate buffer.

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

- now have a housing land supply of at least five years and five months, the Council having assessed this supply in line with the National Planning Policy Framework and with 12,000 homes sought within the Liveable Exeter programme. The tilted balance no longer applies and the core strategy policies are considered up to date.
- the Core Strategy vision sets out a commitment to sustainable growth though “maximising the use of previously developed land within the city” and sets out that Exeter will “build on its strengths and assets by safeguarding the hills to the north and north west,”
- it is a car-led development, cut off from community amenities;
- mitigating climate change and minimising the need to travel is a thread that runs throughout the core strategy and CP11 stipulates that developments should be “located and designed so as to minimise and if necessary mitigate against environmental impacts.”;
- the proposed site is up steep hills in both directions, which would make walking and cycling for anything other than recreation difficult. The nearest train station is a 22 minute walk away with the bus route limited. This development would therefore increase car dependency and worsen environmental impacts;
- measures to offset car use include financial contributions to improve walking and cycling infrastructure and a contribution to extend the F1 bus route to the development, but will not realistically reduce car use or dependency;
- the bus stop five minutes from Celia Crescent is too far for many and is an extremely limited route. Stagecoach is a private company and operates at its own discretion;
- the steep hills of this part of Exeter mean that, while residents might cycle or walk for exercise or recreation, it would be very difficult to cycle or walk to work, to the shops or into the city centre;
- maximising the number of parking spots within the site given its low density, is not a sustainable development;
- whilst a large parcel of open space is offered there are very few other amenities within walking distance. Besides a small local convenience store, and a takeaway, there are no local food shops. The nearest supermarket is a minimum 20 minute walk. The local secondary school does not have any available places, and GP surgeries are already oversubscribed.
- the offer of financial contributions for infrastructure will do little to address local pressure points or the deficit in community amenities;
- the definition of sustainability is to meet current needs whilst not sacrificing the ability of future generations to meet their needs. Adding 93 houses in an area that has been subject to so many new housing developments in recent years will not help achieve Exeter’s vision for sustainable, healthy communities;
- the site falls within an area that has been identified as requiring protection from development in a succession of documents and policies - the Exeter Fringes Study, designation as landscape setting within the Exeter Local Plan First Review, and discounted as being suitable for housing in the 2015 Strategic Housing Land Availability Assessment;
- there might be some parallels between the Home Farm and Clyst Road cases in terms of location and landscape sensitivity but those decisions were made in the context of a significant housing supply shortfall;
- the proposal conflicts with policy LS1, which prohibits all housing development on landscape setting land. Policy CP16 protects landscape setting land from the harmful impacts of development;

- whilst never adopted, Exeter's Development Delivery Development Management plan is also a material consideration;
- officers determine that, while there would be some moderate impact on the immediate surroundings, the overall impact on the city's landscape setting would be minimal. However, while not presenting as severe a harm as other recent applications, this application still presents some harm. Locally, some of the hedgerows that currently shield the lower field from the site would be removed for access and, despite the replanting plans, will take decades to grow back;
- the transfer of three higher fields for perpetual community benefit and improved drainage systems and double yellow lines would be beneficial as would 32 affordable homes and financial contributions for city infrastructure. However, is the provision of the three higher fields worth losing the bottom two fields for? ;
- safety concerns of parents whose homes would no longer open onto a historic green but a busy two-way road; the loss of open space in Spruce Close that children are currently able to play on; and the concerns about the extremely narrow roads on both sides of the site that would have to accommodate significant additional traffic; and
- the housing and sustainability benefits offered by this proposal are not sufficient to outweigh the many ways in which it falls short of the core strategy vision, objectives and policies.

Steven Hanna spoke against the application. He raised the following points:-

- the developer has tried to divert attention to the development being below the ridge line but visual impact is not the only matter;
- community impact is severe and development will ruin the character especially of the historic green as would any access road;
- the access road is needed as it is a car driven development and every new home will have at least one car parking space. As such it cannot be a green and sustainable development;
- it is unsafe for children on that historic green;
- it is unsafe to reverse up or down the hill which won't be helped by yellow-lines or an additional 90 cars;
- the continuation of any bus service is not in the Council's control and it cannot be presented as sustainable when cars are still needed and local schools are over-subscribed;
- there is now a 100%, five -year housing supply; and
- the up-to-date policies should be tested to protect the heritage.

Ed Tremlett spoke in support of the application. He raised the following points:-

- the land had been in family ownership for over 100 years, forming part of a larger farm with a tenant increasing his farming activity generally including a pedigree herd of cattle;
- to help sustain this herd he has been trying to use the land at Pinhoe more productively, mainly to produce silage for winter feed. The grass was contamination due to dog mess etc. and the tenant has asked for a solution;
- it was hard to restrict access as chains and padlocks on the gates have been removed;
- options examined had been a new stock proof fence around the entire area to deter access, ploughing to enable crop for the cattle which would produce more feed per acre or selling the land to a neighbouring landowner. All were negative options and would stop the public access;
- the application was a positive compromise. The development amounted to about 14 acres of the lowest level land, with 22 acres of the more attractive

- higher fields being gifted to the residents in perpetuity. It would ring fence the whole zone, giving total certainty to the green belt that surrounds the local area;
- there would be a lot of extra planting and landscaping to make the gifted land even more attractive and diverse. The situation was not sustainable as it is, and none of the other options would be of any benefit to the residents;
  - the application would leave a positive and lasting legacy for the residents, securing them a large tract of countryside that can never be taken away.

Responding to a Member's query he advised that, as a landowner and not the developer, he could not provide information on design and relationship of housing to the ridgeline. The Principal Project Manager Development stated that the application was outline and scale was a reserved matter - the parameters plans would allow housing up to two storeys, but this would be determined at the reserved matters stage.

Members expressed the following views:-

- the Council now has a five year housing land supply;
- the site is an integral part of the hills around and in the north of the city and is of major landscape importance containing the urban extent of Exeter and providing a setting for the city. The development would undermine the Council's desire to protect the city's hills;
- the proposal would result in extending residential development beyond the built up area, potentially resulting in a harmful effect on the character and appearance of this part of the city;
- proposal does not accord with the Council's future development plans as set out in the Liveable Exeter strategy and its place making ambitions where priority is given to developing brown field sites with development of green space the lowest consideration;
- the site location necessitates a car driven development as residents, particularly the elderly, disabled and those with younger children would be unlikely to walk/cycle to reach the site and, as such, it would be an unsustainable development;
- the bus service in this area has been historically poor exacerbated by the current Stagecoach driver shortage;
- contributions to secondary education and GP services may not reflect local and wider city wide requirements;
- a car led development does not reflect the ambitions for a sustainable transport hierarchy in the city;
- unless bungalows are envisaged, the height of the houses will have an impact on the character of the hillside;
- potential disruption to bat navigation network and feeding corridor;
- whilst affordable housing remains a city priority with some 3,200 on the housing waiting list a car led development is not sustainable.

The Principal Project Manager stated that the proposal was considered to be a sustainable development when balancing the development plan policies, National Planning Policy Framework 2021 policies, including the presumption in favour of sustainable development in paragraph 11, National Planning Practice Guidance (NPPG), and the constraints and opportunities of the site. A Section 106 legal agreement and conditions were necessary to secure public open space, affordable housing, infrastructure contributions and other aspects of the development to make it acceptable in planning terms.

The recommendation was for approval, subject to the completion of a Section 106 Agreement and the conditions as set out in the report.

Councillor Bialyk moved and Councillor Hannaford seconded the refusal of the application which was voted upon and agreed unanimously. There followed a short adjournment for officers to agree the wording of the refusal reasons.

Councillor Bialyk moved and Councillor Branston seconded the substantive motion to refuse the application for the reason set out below which was voted upon and agreed unanimously.

**RESOLVED** that the application for outline application for up to 93 residential dwellings (Approval sought for details of access only, with scale, layout, appearance and landscaping all reserved for future consideration) (Revised Scheme) be **REFUSED** as the adopted Core Strategy sets out an approach which steers development away from the hills that are strategically important to the setting of the city. The Local Plan sets out a sequential approach to development with greenfield sites being at the bottom of that hierarchy. As the Council can demonstrate a five year housing land supply greater weight is afforded to its adopted policies. It is considered that the development of this site would undermine the spatial approach set out in the development plan by allowing development on a site which lies in an area identified for protection, and as such the proposal is contrary to policy H1 of the Exeter Local Plan First Review 1995-2011 and Policy CP16 of the Core Strategy adopted February 2012.

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**PLANNING APPLICATION NO. 20/0691/FUL - CLIFTON HILL SPORTS CENTRE,  
CLIFTON HILL, EXETER**

Councillor Morse declared a disclosable pecuniary interest and left the meeting during consideration of this item.

The Chair was taken by the Deputy Chair, Councillor Williams.

The Principal Project Manager (Development) (HS) presented the application for the demolition of existing sport facility and rifle range and re-development of the site to provide 42 new dwellings, associated car parking, amenity space and access.

The Principal Project Manager (Development) advised that the application had received planning permission on 14 December 2020 subject to conditions and the completion of a Section 106 Legal Agreement to ensure contributions for affordable housing, open space enhancements, secondary education, highways works and sustainable transport measures. The applicant had subsequently presented a Viability Assessment to demonstrate the proposals for residential development were not viable taking into account an alternative use on the site as purpose built student accommodation. An independent assessment had concluded that - "If the Authority is minded that sufficient evidence is provided to allow Purpose Built Student Accommodation to create an Alternate Use Value for the land, then it is our opinion that this would make the development unable to contribute to an on-site affordable housing contribution.";

The Principal Project Manager reiterated the main elements reported at the 14 December 2020 meeting and went on to explain the background to this change and the rationale for proposing to amend the resolution of the December 2020 meeting to omit the reference to affordable housing in the list of matters to be secured by the Section 106 Legal Agreement:-

The Principal Project Manager restated the four tests that were relevant to concluding whether the Alternative Use Value was appropriate as suggested in national guidance on viability in plan making and decision taking and that these

were considered to be met in respect of purpose built student accommodation. It was confirmed that evidence of the costs and values of the alternative use to justify the land value had been submitted and agreed. As such the Alternative Use Value was considered to be an appropriate basis to assess viability of the proposed development and that the proposed development was unable to contribute to on-site affordable housing. With the exception of the affordable housing offer the application was in all other respects identical to that considered by Committee on 14 December 2020. There had been no material changes to the site or surroundings since that time.

The Principal Project Manager referred to the following material changes in circumstances that had taken place since December 2020:-

- confirmation of the Tree Preservation Order in May 2021. The Tree Preservation Order had been made in December 2020 and was a material consideration in determining the application at that time; confirmation of the Order did not alter the weight that had been attached to it in decision making;
- updates to the National Planning Policy Framework July 2021. These reinforce the need for design quality and would not affect the recommendation; and
- the Council's revised Five Year Housing Land Supply position in September 2021. Weight was given to the lack of five year housing land supply in December, however the recommendation did not turn on that matter and hence this being revised upwards does not change the officer's recommendation.

The Principal Project Manager concluded by highlighting the following key elements:

- the site is a brownfield site within the urban area in a sustainable location close to a range of services;
- the proposal is acceptable in its design and general visual impact, including its impact on the Conservation Area and the Locally Listed Building;
- the proposal is not considered to be of any significant harm to residential amenity of nearby residential properties;
- the scheme will not provide affordable housing for viability reasons;
- the proposals, through replacement planting on-site and contributions to the improvement of off-site green spaces are considered to adequately compensate for the loss of trees on site;
- the development would help the Council maintain a five year housing land supply;
- concerns raised by local residents in respect of access matters can be suitably addressed through planning condition;
- Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise; and
- there are no material considerations which it was considered outweigh the above and would warrant refusal of this application.

The Principal Project Manager responded as follows to Members' queries: -

- the development has one parking space per house and three for the eleven flats and so is not a car free development, but is a low car development, the provision being below the adopted standard;
- as it was a sustainable site affordable to the applicant and was policy compliant in line with the valuation of the land as a market valuation, the future of the site was dependent on what the current owner wished to develop in accordance with the planning legislation which contains an opportunity to use alternative land value;

- the value of the land is dictated by policy compliant alternative uses and the viability assessment had not been restricted to earlier land use considerations; and
- there are four tests suggested in guidance which would need to be satisfied in terms of alternative land use value approach, this it is not by itself creating precedent as such as there is the opportunity to rely on alternative use value set out in the viability appraisal guidance.

Emma Osmundsen spoke in support of the application. She raised the following points:-

- Exeter City Living (ECL) is committed to delivering affordable homes on the Clifton Hill development, intentions unchanged since last year's application;
- will develop 11 apartments which will be sold to Exeter City Council as part of their council housing portfolio and held within the Housing Revenue Account;
- the financial capacity to deliver the affordable homes as a Section 106 requirement had changed which had necessitated the need to submit a liability case;
- the cumulative Section 106 Agreement requirements had added costs to the development over and above expectations, including contributions to open space, traffic orders and education which when combined with CIL obligations totalled £870,000. This was in addition to the increase in development costs over and above 'normal development' with the inclusion of a public accessible 'green street' for enhanced bio-diversity, the adoption of low carbon construction, ground source heat pumps and passivhaus certification;
- the site was a brownfield and contaminated and subject to abnormalities not encountered on greenfield sites. All of these factors combined, along with substantial price hikes for construction materials and labour had meant that the development is no longer viable if the affordable housing was to be delivered as a Section 106 requirement;
- whilst waiving a Section 106 obligation for affordable housing was not comfortable for the Council, ECL had been meticulous in their viability evidence to support the grounds for a departure from policy in this case;
- as the City Council's wholly owned development company, the development had been designed in line with the City Council's strategic vision for the future, and the objectives in its Liveable Exeter, Net Zero Exeter 2030 Plan and Building Back Better publications;
- no other open market development proposals in the City offered such a high level of Place making or fabric-first low carbon approach and was therefore reasonable grounds for a departure from policy in this case;
- the conclusions of the consultant, Burrows-Hutchinson Ltd drawn from their Financial Viability Assessments, indicate that with no Section 106 obligation, there was a strong chance of Homes England support for the 11 new homes. This would enable ECL not only to deliver 11 apartments as affordable homes; but to further achieve an acceptable financial return for ECL, which benefits the City as a whole.

Responding to a query on whether the bid to Homes England was likely to succeed and whether there could be a formal agreement between the Council and ECL if it did not succeed, Emma Osmundsen advised that, prior to the planning application, ECL had worked with HRA officers to secure the specification, design and the transfer value of the houses to the HRA. ECL wished to pursue the viability argument on grounds of increased costs and increased land value. To mitigate those costs by losing the Section 106 element, opened up the opportunity for approaching Homes England. It was a good opportunity and, although not guaranteed, there was nothing to suggest ECL would not get a grant.

Responding to a query if alternative third party funding could not be secured, Emma Osmundson stated that it remained the intention to provide 11 affordable units without a Section 106 Agreement and that there was an active obligation to utilise part of the site for affordable housing to be held in the HRA.

Members expressed the following views:-

- the Council had made a previous decision to pursue a housing scheme on Clifton Hill;
- can an assurance be provided as part of the resolution of the commitment to provide social housing on this site? Officers advised that this would not be appropriate as the viability analysis had shown it not to be viable to require affordable
- accept no guarantee that Homes England will support the application but support ought to be forthcoming given the offer of quality, cheap to run, Passivhaus housing in a sustainable city centre location.

A Member, in welcoming the commitment to provide affordable housing, expressed concern that the removal of a requirement for such housing in the Section 106 Agreement could set a precedent and suggested that lifting of this element of the Section 106 should only be supported if a formal undertaking could be attached to ensure the Council would purchase affordable housing in order to guarantee their delivery. Officers advised that this would not be appropriate as the viability analysis had shown it not to be viable to require affordable housing through the planning agreement. The Councillor was therefore seeking clarification that there would be a formal undertaking attached to the development that the Council would purchase the homes if the bid to Homes England did not succeed.

The Leader referred to the commitment made by the ECL representative to build affordable/social housing and stated that the Council was in a unique situation as it could hold the developer to this commitment and which could not be the case with private developers elsewhere in the city. As such, the issue of viability would not be setting a precedent. Furthermore, in engaging ECL, as the Council's own development company, higher environmental standards could be insisted on than would otherwise be the case with an alternative developer and that this approach was in line with the Council's place shaping agenda.

The Leader gave an assurance that regardless of the outcome of the bid to Homes England it was the intention to provide affordable housing at Clifton Hill. The Chief Executive & Growth Director confirmed that this statement was one of political intent and that the planning merits of the application should be judged separately.

Members noted this assurance from the Leader.

The Leader suggested that approval be delegated to the Chief Executive & Growth Director in consultation with the Portfolio Holder for City Development.

The recommendation was for approval, subject to the completion of a Section 106 Agreement and the conditions as set out in the report.

Councillor Sutton moved and Councillor Hannaford seconded the recommendation with an amendment to delegate final approval to the Chief Executive & Growth Director in consultation with the Portfolio Holder for City Development. The motion, with amendment, was put to the vote and carried unanimously.

**RESOLVED** that, subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) to secure the following:-

- Open space enhancement contributions totalling £70,000.
- Secondary education contribution of £135,232.
- Highways works, sustainable transport measures, including cycle hub station and car club space with charging infrastructure, and Traffic Orders.

all Section 106 contributions will be index linked from the date of resolution.

the Chief Executive & Growth Director in consultation with the Portfolio Holder for City Development be authorised to **GRANT** planning permission for the demolition of existing sport facility and rifle range and re-development of the site to provide 42 new dwellings, associated car parking, amenity space and access, subject also to the following conditions (and their reasons) which may be amended:-

- 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

Updated Revised General Arrangement Plan 190908 L 02 02 revision F received 4/12/2020

Updated Revised Boundary Treatment Plan 190908 L 02 03 revision E received 4/12/2020

Updated Revised Refuse Strategy 190908 L 02 04 revision D received 4/12/2020

Updated Revised Vehicular Parking Strategy 190908 L 02 05 revision D received 4/12/2020

Revised Floor Plans Block 01 Drg 100 rev A received 17/11/2020

Revised Sections Block 01 Drg 110 rev A received 17/11/2020

Revised Elevations Block 01 Drg 120 rev A received 17/11/2020

Revised Floor Plans Block 02 Drg 200 rev A received 17/11/2020

Revised Sections Block 02 Drg 210 rev A received 17/11/2020

Revised Elevations Block 02 Drg 220 rev A received 17/11/2020

Revised Floor Plans Block 03 Drg 300 rev A received 17/11/2020

Revised Sections Block 03 Drg 310 rev A received 17/11/2020

Revised Elevations Block 03 Drg 320 rev A received 17/11/2020

Revised Floor Plans Block 04 Drg 400 rev A received 17/11/2020

Revised Sections Block 04 Drg 410 rev A received 17/11/2020

Revised Elevations Block 04 Drg 420 rev A received 17/11/2020

Updated Revised Floor Plans Block 5-7 Drg 501 rev A Received 3/12/2020

Revised Floor Plans Block 5-7 Drg 502 rev A received 17/11/2020

Revised Sections and Visualisation Block 5-7 Drg 510 rev A received 17/11/2020

Revised Elevations Block 5-7 Drg 521 rev A received 17/11/2020

Revised Elevations Block 5-7 Drg 522 rev A received 17/11/2020

Revised Floor Plans Block 8 Drg 800 rev A received 17/11/2020

Revised Sections and Visualisation Block 8 Drg 810 rev A received 17/11/2020

Revised Elevations SW Block 08 Drg 821 rev A received 17/11/2020  
Revised Elevations NE Block 08 Drg 822 rev A received 17/11/2020  
Revised Floor Plans Block 09 Drg 900 rev A received 17/11/2020  
Revised Sections Block 09 Drg 910 rev A received 17/11/2020  
Revised Elevations Block 09 Drg 920 rev A received 17/11/2020  
Boundary Test Sections Sk004 1-3 rev B received 17/11/2020  
Boundary Test Sections Sk004 4-5 rev B received 17/11/2020  
Boundary Test Sections Sk004 6-8 rev B received 17/11/2020  
Boundary Test Sections Sk004 9-10 rev B received 17/11/2020  
Revised Street Elevations 020 rev A received 17/11/2020  
Revised Street Elevations 021 rev A received 17/11/2020  
Updated Revised Softworks Schedule revision C received 4/12/2020

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 (except for the demolition and removal of the existing Leisure Centre and Rifle Range buildings) 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 a programme of archaeological monitoring on-site, 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) Prior to the commencement of any phase 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:** To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that building operations are carried out in a sustainable manner.
- 5) Pre-commencement condition: No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall

trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

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

- 6) Details of the secure sheltered cycle parking (including the electric bicycle parking) for the development shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until such details have been agreed in writing by the Local Planning Authority, and prior to occupation of each dwelling the cycle parking for that dwelling shall have been provided in accordance with the submitted details.

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

- 7) A detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, and is subject to the approval in writing of the LPA. The scheme must be based on the findings in South West Geotechnical Ltd's Geotechnical and Geo-Environmental Assessment (report no.: 12072 V3, date: October 2020) (including any additional data obtained after that report was submitted) and must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

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 or to demolish existing buildings to ground floor level, unless otherwise agreed in writing by the LPA. Following completion of measures identified in the approved remediation scheme and prior to occupation of the development, a verification report must be produced that demonstrates the effectiveness of the remediation carried out and provides confirmation that no unacceptable risks remain, and is subject to the approval in writing of the LPA.

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 LPA. An investigation and updated risk assessment must be undertaken, and where remediation is necessary an updated remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be produced and approved in writing by the LPA.

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

- 8) Pre-commencement condition: No development (including demolition) shall take place until a Construction and Environment Management Plan (CEMP) for that phase of the development has been submitted to and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to:

- a. There shall be no burning on site during demolition, construction or site preparation works;
- b. Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;
- c. Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.

The CEMP 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.

The CEMP should include details of access arrangements and timings and management of arrivals and departures of vehicles.

An approved CEMP shall be adhered to throughout the construction period.  
**Reason for pre-commencement condition:** In the interests of the occupants of nearby buildings. 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.

- 9) The following additional details shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall subsequently be implemented on site:
  - Details of the boundary treatment on the boundary with the rear of properties on Portland Street.
  - Details of the arrangement of substation, covered and secure cycle spaces, car parking spaces and landscaping details adjacent the retained Brick Office building.
  - Details of works to the Brick Office building.**Reason:** In the interests of controlling these details which are not submitted in detail as part of the application.
- 10) Before either of the access points onto Clifton Hill, as indicated on Drawing No. 190908 L 02 02 Rev D, are first brought into use that access shall have been provided in accordance with details and specifications that shall previously have been submitted to, and agreed in writing by, the Local Planning Authority.  
**Reason:** To ensure that a safe and suitable access to the site is provided for all users, in accordance with Paragraphs 108/110 of the NPPF and CP9 of the ECC Core Strategy.
- 11) No part of the development hereby approved shall be brought into its intended use until a club car parking and a club-bike docking station (together with electricity supply to both elements) as indicated on Drawing No. 190908 L 02 02 REV D, or such other location as may subsequently be agreed in writing, has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To provide adequate facilities for sustainable transport and ECC Core Strategy CP9.
- 12) Prior to occupation of the development hereby permitted, a travel pack/car park management plan shall be provided informing all residents of walking

and cycling routes and facilities, public transport facilities including bus stops, rail stations and timetables, car sharing schemes and car clubs, as appropriate, the form and content of which shall have previously been approved in writing by the Local Planning Authority.

**Reason:** To ensure that all occupants of the development are aware of the available sustainable travel options, in accordance with Paragraph 111 of the NPPF.

- 13) Any gates that provide access to rear gardens must be capable of being locked from both sides. All external doors and accessible windows should as a minimum standard comply with the requirements of Approved Document Q (ADQ) of the Building Regulations and/or Secured by Design (SBD) standards as set out in Secured by Design Homes 2019.  
**Reason:** In the interests of reducing opportunities for crime.
- 14) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.  
**Reason:** The proposed development site is located on a historic landfill site. This presents a risk of contamination that could be mobilised during construction to pollute controlled waters.
- 15) Prior to occupation of any dwelling 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.
- 16) Notwithstanding the submitted plans 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 dwelling or building shall be occupied 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:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 17) 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.

- 18) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.  
**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 19) No building hereby permitted shall be occupied until surface water drainage works broadly in accordance with the Preliminary Drainage Strategy (Drawing No. PDL 101 Rev C dated 16.11.2020) have been implemented, and any connection to the Surface Water Sewer having been put in place, 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.  
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:** In the interests of sustainable drainage.
- 20) The development hereby approved shall only be undertaken in accordance with the recommended mitigation measures set out in the Unexploded Ordnance Risk Assessment dated 5th February 2020.  
**Reason:** In the interests of human health.
- 21) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, and any Order revoking and re-enacting that Order with or without modification, no development of the types described in the following Classes of Schedule 2 shall be without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-  
Part 1, Class A extensions and alterations  
Part 1, Classes B and C roof addition or alteration  
Part 1, Class E swimming pools and buildings incidental to the enjoyment of the dwellinghouse  
**Reason:** In order to protect residential amenity and to prevent overdevelopment.
- 22) Prior to occupation of the dwellings with which they are associated each of the car parking spaces and garages shown on the approved plans shall be fitted with electrical supply to support an electric vehicle charging point.  
**Reason:** In the interests of sustainable development and air quality.

- 23) The development hereby approved shall be constructed to The Passivhaus Standard, or such other energy and building performance standard that may subsequently be agreed in writing by the Local Planning Authority.  
**Reason:** In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.
- 24) Prior to the occupation of each dwelling hereby approved, ducting or equivalent service routes should be installed capable of accommodating at least 6 separate fibre-optic cables that enable electronic communications services network suppliers to freely connect between the boundary of the site and the inside of each dwelling for the purposes electronic communications.  
**Reason:** To contribute to the development of high speed broadband communication networks and to ensure that adequate provision is made to meet the needs of future occupants of the dwellings for high speed internet access in line with paragraph 42 of the NPPF.
- 25) The dwellings hereby permitted shall each only be occupied as single unit of accommodation within Use Class C3 (dwelling houses).  
**Reason:** For the avoidance of doubt and to prevent the creation of an additional separate dwellings or the occupation as Houses in Multiple Occupation without that being considered by the Local Planning Authority.
- 26) Prior to commencement of any works on site (excluding demolition of existing buildings) a scheme of off-site replacement tree planting, together with a programme for implementation shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved programme thereafter.  
**Reason for the pre-commencement condition:** In the interest of further mitigating the impacts of development on trees and protecting the amenity of the area.
- 27) The works within the root protection zones of retained trees as part of the development hereby permitted shall only be carried out in accordance with an Arboriculture Method Statement that shall have been submitted to and approved agreed in writing by the Local Planning Authority prior to commencement of development on site. The approved Method Statement shall thereafter be adhered to.  
**Reason:** To ensure the protection of the retained trees during the carrying out of the development and protecting the amenity 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 negotiated amendments to the application to enable the grant of planning permission.
- 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 Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the

development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

- 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).
- 4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
- 5) Movement of waste off-site - The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here:

[https://www.gov.uk/uploads/system/uploads/attachment\\_data/file/waste-duty-care-code-practice-2016.pdf](https://www.gov.uk/uploads/system/uploads/attachment_data/file/waste-duty-care-code-practice-2016.pdf)

and further **RESOLVED** that:-

the City Development Lead or Deputies be authorised to **REFUSE** planning permission for the reasons set out below if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) within six months of the date of this Committee or such extended time as agreed by the City Development Lead or Deputies for the reasons set out below:-

In the absence of a Section 106 legal agreement in terms that are satisfactory to the Local Planning Authority being completed within an appropriate timescale, and which makes provision for Affordable Housing, Open space contributions, highways works, sustainable transport measures and Traffic Orders the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 1, 3, 5, 6, and 10, and policies CP5, CP7, CP9, CP10, Exeter Local Plan First Review 1995- 2011 saved policies, L4, T1, T3, DG5, Exeter City Council Affordable Housing

Councillor Morse returned and resumed the Chair for the remainder of the meeting.

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**PLANNING APPLICATION NO. 20/1187/FUL - EXMOUTH JUNCTION GATEWAY SITE , PRINCE CHARLES ROAD, EXETER**

The Principal Project Manager and Acting Major Projects Team Leader presented the application for the re-development of the site and construction of a part three, part five storey building containing 51 residential units with associated access and servicing arrangements, car parking, landscaping and infrastructure ancillary to the residential use. (*Revised*)

The Principal Project Manager reported that the application had received a resolution to grant planning permission on 29 April 2021, subject to the completion of a Section 106 Legal Agreement and conditions, the applicant having subsequently contested condition 26, requiring a Locally Equipped Area of Play (LEAP) to be provided on the main Exmouth Junction site before the development subject of this application was occupied.

The Principal Project Manager went on to explain the background to this change and the rationale for proposing to remove condition 26 in favour of an additional obligation in the Section 106 Legal Agreement is considered acceptable;

- the condition had been added in accordance with the comments of the Public and Green Spaces Team taking into account the national guidance by Fields in Trust recommending that developments of 1-200 dwellings provide a Local Area for Play (LAP) and Local Equipped Area for Play (LEAP) on-site, or a financial contribution towards the improvement of an existing equipped/designated play space in lieu of on-site provision. The proposed development for 51 dwellings had include a LAP on-site, but not a LEAP due to its relatively small size agreed on the basis that a new LEAP would be provided on the main Exmouth Junction site;
- the applicant no longer owned the part of the main Exmouth Junction site where the 'Village Green' was located and were concerned that the Exmouth Junction Gateway apartment block would not be able to be occupied if the LEAP on the main site was not delivered, and they have no control over the land in question. They therefore requested the removal of the condition and a clause added to the Section 106 legal agreement which would allow a financial contribution to be paid to the Council in lieu, if the terms of the condition are not met; and
- the Public and Green Spaces Team had agreed a financial contribution of £80,000 for improving existing off-site play areas serving the development. This would only be paid if a LEAP has not been provided on the main Exmouth Junction site before the development is occupied.

The Principal Project Manager further advised:-

- revised plans showing balconies for all relevant one-bed flats had been received and the recommendation updated accordingly;
- the Council was now able to demonstrate a five year supply of deliverable housing sites with an appropriate buffer removing an automatic application of a

presumption in favour of sustainable development. However, this did not change the conclusion that planning permission should be granted; and

- a Section 106 Legal Agreement would be needed to secure the affordable housing requirement and the contributions that had been requested, which were considered necessary for the development to proceed.

The Principal Project Manager also referred to the following main elements of the proposal:-

- 20% affordable housing in line with National Planning Practice Guidance and £27,387.65 financial contribution;
- a car-free scheme with one disabled parking space and one electric vehicle car club parking space. Residents would not be entitled to residents' parking permits to park on local streets;
- internal cycle store (90 spaces) and 50 external spaces;
- children's play space and rooftop amenity space;
- contributions of £88,968 secondary education; £63,750 towards E4 strategic cycle route along Prince Charles Road/Stoke Hill roundabout; £60,000 towards provision and improvement of off-site playing fields; and
- CIL Liability: £518,415.87 which did not include social housing relief.

The Principal Project Manager responded as follows to Members' queries:-

- the focus of contributions sought by the Highway Authority was on improving safety particularly around the Stoke Hill roundabout and did not include a covered bus shelter near to the roundabout adjacent to the development although this suggestion could be raised with the Authority,
- similarly, negotiations with the County Council on car free developments took into account the merits of each site and that there was no policy position to enforce car free developments in certain areas of the city. The development built on existing sustainable transport features within the area; and
- the developer's request in respect of the condition arose from the change in ownership of the main Exmouth junction site.

The proposed development was considered to be acceptable. It had been designed as an extension to the Exmouth Junction development site that was granted planning permission on 21 May 2021. It would be a car-free development, acceptable to the Local Highway Authority and would support the net-zero carbon 2030 target. The design and scale of the building were considered to be acceptable and it would follow the same architectural approach as the main Exmouth Junction development and act as a 'gateway building'. It would make effective and efficient use of the land in accordance with local and national policies and would help the Council maintain a five year housing land supply.

The recommendation was for approval, subject to the completion of a Section 106 Agreement and the conditions as set out in the report.

The recommendation was moved and seconded and carried unanimously.

**RESOLVED** that, subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) to secure the following:-

- 20% of the dwellings will be affordable private rented (10 dwellings) in accordance with the glossary definition of Affordable housing for rent in Annex 2 of the NPPF (2019);

- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing;
- £88,968 towards secondary education provision;
- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout;
- £60,000 towards provision and improvement of off-site playing fields;
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development
- £25,000 towards Tree Preservation Orders, unless this contribution has already been paid for 19/0650/OUT (“Exmouth junction”)

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

the Deputy Chief Executive be authorised to **GRANT** planning permission for the re-development of the site and construction of a part three, part five storey building containing 51 residential units with associated access and servicing arrangements, car parking, landscaping and infrastructure ancillary to the residential use. (*Revised*), subject also to the following conditions:-

1. Standard Time Limit – Full Planning Permission

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 comply with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended).

2. Approved Plans

The development hereby permitted shall be carried out in complete accordance with the approved plans listed below, unless modified by the other conditions of this consent:

- Site Location Plan (20001 (01)-S-001)
- Proposed Ground Floor Plan (20001 (03)-P-0G0 Rev 03)
- Proposed 1<sup>st</sup> + 2<sup>nd</sup> Floor Plan (20001 (03)-P-001 Rev 04)
- Proposed 3<sup>rd</sup> Floor Plan (20001 (03)-P-003 Rev 04)
- Proposed 4<sup>th</sup> & 5<sup>th</sup> Floor Plan (20001 (03)-P-004 Rev 04)
- Proposed Roof Plan (20001 (03)-P-0R0 Rev 02)
- Proposed SE Elevation (20001 (03)-E-001 Rev 04)
- Proposed SW Elevation (20001 (03)-E-002 Rev 04)
- Proposed West Elevation (20001 (03)-E-003 Rev 04)
- Proposed NE Elevation (20001 (03)-E-004 Rev 04)
- Swept Path Analysis – Large Refuse (VN201674-TR103)
- Indicative Landscaping (20001 (90)-P-0G0 Rev 01)

**Reason:** To ensure the development is constructed in accordance with the approved plans.

***Pre-commencement Details***

3. Construction and Environmental Management Plan (CEMP)

No development (including ground works) or vegetation clearance works shall take place until a Construction and Environmental Management Plan (CEMP) has been

submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

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

#### 4. Reptile Mitigation Strategy

No development (including ground works) or vegetation clearance works shall take place until a Reptile Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall be carried out by a suitably qualified ecologist and be based on the ecological mitigation and avoidance measures for reptiles contained in the submitted Ecological Impact Assessment (Burton Reid Associates, August 2020). The Strategy shall be adhered to and implemented in full.

**Reason:** To ensure that reptiles on the site will not be harmed by vegetation clearance works or other construction activities. These details are required pre-commencement as specified to ensure that an appropriate strategy is in place to protect reptiles on the site before construction works begin.

#### 5. Contaminated Land

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

**Reason:** In the interests of the amenity of the occupants of the 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.

#### 6. Detailed Permanent Surface Water Drainage Scheme

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with Devon County Council groundwater monitoring policy.
- b) Evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins/tanks if infiltration based techniques are to be proposed.
- c) A detailed drainage design should be submitted which encompasses above ground sustainable drainage systems and the use of FEH rainfall data as well as the results of the information submitted in relation to (a) and (b) above.
- d) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- e) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- f) A plan indicating how exceedance flows will be safely managed at the site.
- g) Evidence there is agreement in principle from SWW for the connection into their system.

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

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

## 7. Tree Protection

No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing to protect trees and shrubs on or adjacent to the site 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/shrubs during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

## 8. Construction Method Statement

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

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of security hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures monitor and control the emission of dust and dirt during construction (including, but not limited to, the measures recommended in Table 17 of Syntegra Consulting's Air Quality Assessment for Exmouth Junction Gateway, Exeter (date:18/08/2020)).
- h) No burning on site during construction or site preparation works.
- i) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the Local Planning Authority.

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

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

#### 9. Waste Audit Statement

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

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

#### 10. Energy Performance Standard

Prior to the construction of the foundations of the building hereby permitted, the Design SAP calculation(s) of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority, which shall demonstrate that the dwelling(s) will achieve a 19% reduction in CO2 emissions in relation to the level required to meet the 2013 Building Regulations. No individual dwelling shall be occupied until the As-Built SAP calculation of the dwelling has been submitted to and approved in writing by the Local Planning Authority to confirm that a 19% reduction in CO2 emissions in relation to the level required to meet the 2013 Building Regulations has been achieved.

**Reason:** To ensure the dwelling(s) will achieve the energy performance standard required by Policy CP15 of the Core Strategy, taking into account the Written Ministerial Statement on Plan Making (25 March 2015) requiring local planning

authorities not to exceed the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes, in the interests of reducing greenhouse gas emissions and delivering sustainable development. (Advice: Please see Paragraph: 012 ID: 6-012-20190315 of the National Planning Practice Guidance on Climate Change for background information.)

#### 11. Bird Nesting Season

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

**Reason:** To protect nesting birds in accordance with saved Policy LS4 of the Exeter Local Plan First Review and paragraphs 174 and 175 of the NPPF (2019).

#### 12. Materials

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

**Reason:** In the interests of good design and the character of the area, in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review and paragraph 127 of the NPPF (2019).

#### 13. Nesting and Roosting Boxes

Prior to the construction of the external walls of the building hereby permitted, details of the provision for nesting birds and roosting bats in the built fabric of the building shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented as part of the development and retained thereafter.

**Reason:** To enhance biodiversity on the site in accordance with the Residential Design Guide SPD (Appendix 2) and paragraph 175 of the NPPF (2019).

#### 14. External Lighting

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

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

#### 15. Details of Building Services Plant

Prior to installation, details of all building services plant shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design (including any compound) and noise specification. The plant shall

not exceed 5dB below the existing background noise level at the site boundary. If the plant exceeds this level, mitigation measures shall be provided to achieve this in accordance with details previously submitted to and approved in writing by the Local Planning Authority. (All measurements shall be made in accordance with BS 4142:2014).

**Reason:** In the interests of residential amenity.

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

#### 16. Detailed Landscaping Scheme

Prior to the occupation of any dwelling hereby permitted, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. The soft landscaping shall take into account the recommended ecological enhancements in the submitted Ecological Impact Assessment (Burton Reid Associates, August 2020). The hard landscaping shall be constructed as approved prior to the occupation of the development. The soft landscaping shall be planted in the first planting season following the occupation of the development or completion of the development, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** In the interests of good design in accordance with saved Policy DG1 of the Exeter Local Plan First Review and paragraphs 127 and 174 of the NPPF (2019).

#### 17. Landscape and Ecological Management Plan (LEMP)

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

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

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

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

**Reason:** In the interests of biodiversity and good design in accordance with Policy CP16 of the Core Strategy, saved Policies LS4 and DG1 of the Local Plan First

Review and paragraphs 127 and 175 of the NPPF. Also taking into account the recommendations of the submitted Ecological Impact Assessment.

#### 18. Noise Mitigation and Ventilation Standards

Prior to occupation of the development, the noise mitigation and ventilation standards set out in Syntegra Consulting's Noise Impact Assessment for Exmouth Junction Gateway, Exeter (date: 18/08/2020) shall be implemented in full. The measures shall be maintained thereafter unless alternative noise mitigation measures are implemented in accordance with details submitted to and approved in writing by the Local Planning Authority, which shall be maintained thereafter.

**Reason:** In the interests of residential amenity.

#### 19. S278 Agreement

The development shall not be occupied or brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include a pedestrian crossing of the road to the south of the site adjacent to the pedestrian entrance to the site and the footpath widening to the south. The works shall be implemented prior to the occupation of the development.

**Reason:** In the interests of pedestrian safety and promoting sustainable modes of travel taking into account the desire line between the development and supermarket, in accordance with Policy CP9 of the Core Strategy, saved Policies T1, T3 and DG1(a) of the Exeter Local Plan First Review, and paragraphs 108 and 110 of the NPPF (2019).

#### 20. Vehicle Access

Prior to the occupation of the development hereby permitted, the vehicular access as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided in accordance with a plan previously submitted to and approved in writing by the Local Planning Authority. The plan shall include visibility splays to protect the users of the shared use pedestrian/cycle path to the south. The vehicular access shall be maintained thereafter and the visibility splays shall be kept free of visual obstructions above 600mm.

**Reason:** To provide a safe and suitable access to the site in accordance with paragraphs 108 and 110 of the NPPF (2019).

#### 21. Cycle Parking

Prior to the occupation of the development hereby permitted, the internal and external cycle parking as shown on the approved plans shall be provided in accordance with details of the cycle parking (type of racks and weather protection) previously submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be maintained at all times thereafter.

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

#### 22. Car Parking

Prior to the occupation of the development hereby permitted, the disabled car parking space and the EV Car Club space as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided. The EV Car Club space shall be provided in accordance with details of the vehicle charging

point and car club, i.e. who the operator will be and how it will be managed, previously submitted to and approved in writing by the Local Planning Authority. These facilities shall be maintained at all times thereafter unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure the disabled parking space and EV Car Club space are delivered and available for residents of the development in the interests of sustainable travel.

### 23. Travel Plan

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

**Reason:** To encourage travel by sustainable means, in accordance with saved Policy T3 of the Local Plan First Review and the Sustainable Transport SPD.

### 24. Travel Pack

Prior to the occupation of any dwelling in the development on a continuing basis, a travel pack shall be provided to the future resident(s) of the dwelling informing them of the car-free status of the development and that they will not be entitled to residents parking permits to park on local streets, and the walking and cycling routes and facilities, public transport facilities including bus stops, rail stations and timetables, car clubs and electric bike hire facilities available in the area, the form and content of which will have previously been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that all residents of the development are aware of its car free status and the available sustainable travel options.

### 25. Play Space

Prior to the occupation of the development hereby permitted, the Play Space as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided in accordance with details of the play equipment previously submitted to and approved in writing by the Local Planning Authority. The play equipment and Place Space shall be maintained at all times thereafter. The Play Space shall be accessible at all times except for times when the play equipment is being maintained or replaced from damage or general wear and tear.

**Reason:** To ensure the play space is delivered and available for residents of the development in the interests of residential amenity.

and further **RESOLVED** that:-

the City Development Lead or Deputies be authorised to **REFUSE** planning permission for the reasons set out below if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) is not completed by 11 November 2021 or such extended time as agreed by the City Development Lead or Deputies for the reasons set out below:-

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

- 20% of the dwellings will be affordable private rented (10 dwellings) in accordance with the glossary definition of Affordable housing for rent in Annex 2 of the NPPF (2019)
- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing
- £88,968 towards secondary education provision
- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout
- £60,000 towards provision and improvement of off-site playing fields
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development

the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 1, 3, 5, 6 and 10, and policies CP7, CP9, CP10, CP16 and CP18, Exeter Local Plan First Review 1995-2011 saved policies L4, T1, T3, LS2 and LS3, Exeter City Council Affordable Housing Supplementary Planning Document 2014, Exeter City Council Sustainable Transport Supplementary Planning Document 2013 and Exeter City Council Public Open Space Supplementary Planning Document 2005.

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

The report of the Liveable Exeter Programme Director and City Development Strategic Lead was received

**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 30 November 2021 at 9.30 a.m. The Councillors attending will be Councillors Bialyk, Morse and Williams.

(The meeting commenced at 5.30 pm and closed at 7.33 pm)

Chair